

TOWN OF WEST BEND



WASHINGTON COUNTY
STATE OF WISCONSIN

ZONING ORDINANCE

Adopted (Date to be Determined)

Draft for Public Hearing 11-10-09

Prepared by: Southeastern Wisconsin Regional Planning Commission
W239 N1812 Rockwood Drive
Post Office Box 1607
Waukesha, Wisconsin 53187

Recreated by: PDI / GRAEF
241 N. Broadway Suite 300
Milwaukee, WI 53202

TOWN OFFICIALS Error! Bookmark not defined.**Town Board Error! Bookmark not defined.****Town Plan Commission Error! Bookmark not defined.****Zoning Board of Appeals..... Error! Bookmark not defined.****SECTION 1.00 STATUTORY AUTHORITY AND PURPOSE.....1****1.01 AUTHORITY 1****1.02 PURPOSE..... 1****1.03 INTENT 1****1.04 ABROGATION AND GREATER RESTRICTIONS 1****1.05 INTERPRETATION 1****1.06 SEVERABILITY 1****1.07 REPEAL 2****1.08 TITLE 2****1.09 EFFECTIVE DATE 2****SECTION 2.00 GENERAL PROVISIONS.....3****2.01 JURISDICTION 3****2.02 COMPLIANCE 3****2.03 DUTIES OF THE ZONING ADMINISTRATOR..... 3****2.04 ZONING PERMIT REQUIRED..... 4****2.05 USES NOT REQUIRING A ZONING PERMIT 4****2.06 CERTIFICATE OF COMPLIANCE REQUIRED 5****2.07 CONDITIONAL USE PERMIT REQUIRED 5****2.08 DEVELOPERS AGREEMENT REQUIRED..... 5****2.09 SIGN PERMIT REQUIRED 5****2.10 OTHER PERMITS..... 5**

2.11	SITE RESTRICTIONS	5
2.12	USE RESTRICTIONS	6
2.13	REDUCTION OR JOINT USE	8
2.14	CONSERVANCY REGULATIONS	8
SECTION	<u>3.00 FEES AND PENALTIES</u>	<u>10</u>
3.01	PERMIT FEES	10
3.02	DOUBLE FEE.....	10
3.03	VIOLATIONS.....	10
3.04	REMEDIAL ACTION	10
3.05	PENALTIES.....	10
3.06	REVIEW AND ADMINISTRATED FEE	10
SECTION	<u>4.00 ZONING DISTRICTS.....</u>	<u>11</u>
4.01	ESTABLISHMENT.....	11
4.02	ZONING MAP	11
4.03 – I	R-1N NEIGHBORHOOD RESIDENTIAL DISTRICT	12
4.03 – II	R-1R RURAL RESIDENTIAL DISTRICT.....	23
4.03 – III	R-1S SHORELAND RESIDENTIAL DISTRICT	35
4.03 – IV	R-1S/MU SHORELAND RESIDENTIAL / MIXED-USE DISTRICT.....	39
4.04 – I	B-1 COMMERCIAL/MIXED-USE DISTRICT	42
4.04 – II	B-2 COMMERCIAL/MIXED-USE DISTRICT	46
4.05	M-1 INDUSTRIAL DISTRICT.....	51
4.06	C-1 CONSERVANCY DISTRICT.....	55
4.07	C-2 CONSERVANCY OVERLAY DISTRICT	56
4.08	P-1 PUBLIC AND PRIVATE PARK DISTRICT.....	58
SECTION	<u>5.00 CONDITIONAL USES.....</u>	<u>62</u>
5.01	PURPOSE AND INTENT.....	62

5.02	PERMITS	62
5.03	APPLICATION	62
5.04	REVIEW AND APPROVAL	63
5.05	PUBLIC AND SEMIPUBLIC USES	63
5.06	RESIDENTIAL USES	64
5.07	BUSINESS USES	81
5.08	INDUSTRIAL USES	82
5.09	MINERAL EXTRACTION	84
5.10	RECREATIONAL USES	84
5.11	ENERGY CONSERVATION USES	86
<u>SECTION</u>	<u>6.00 TRAFFIC, LOADING, PARKING AND ACCESS</u>	<u>88</u>
6.01	TRAFFIC VISIBILITY	88
6.02	LOADING REQUIREMENTS	89
6.03	PARKING REQUIREMENTS	89
6.04	RESTRICTIONS ON PARKING OF EQUIPMENT	92
6.05	DRIVEWAYS	92
6.06	HIGHWAY ACCESS	93
<u>SECTION</u>	<u>7.00 MODIFICATIONS</u>	<u>94</u>
7.01	HEIGHT	94
7.02	YARDS	94
7.03	ADDITIONS	96
7.04	AVERAGE SETBACKS	96
7.05	CORNER LOTS	96
7.06	NOISE	97
7.07	EXISTING SUBSTANDARD LOTS	97
<u>SECTION</u>	<u>8.00 SIGNS</u>	<u>99</u>

8.01	PURPOSE AND INTENT	99
8.02	COMPLIANCE	99
8.03	SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT	99
8.04	SIGNS PERMITTED IN ALL RESIDENTIAL DISTRICTS WITH A PERMIT	100
8.05	SIGNS PERMITTED IN ALL BUSINESS AND MANUFACTURING DISTRICTS WITH A PERMIT	100
8.06	PORTABLE SIGNS	101
8.07	FACING	101
8.08	LIGHTING AND COLOR	101
8.09	CONSTRUCTION AND MAINTENANCE STANDARDS	102
8.10	EXISTING SIGNS	102
8.11	SIGN PERMIT	103
8.12	MEASURING SIGNS	103
<u>SECTION</u>	<u>9.00 NONCONFORMING USES, STRUCTURES, AND LOTS</u>	104
9.01	EXISTING NONCONFORMING USES	104
9.02	EXISTING NONCONFORMING STRUCTURES	104
9.03	CHANGES AND SUBSTITUTIONS	104
<u>SECTION</u>	<u>10.00 SITE PLAN REVIEW AND ARCHITECTURAL CONTROL</u>	105
10.01	PURPOSE AND INTENT	105
10.02	PRINCIPLES	105
10.03	ADMINISTRATION	109
10.04	REVIEW AND FINDINGS	110
10.05	SURETIES	110
10.06	APPEALS	110
<u>SECTION</u>	<u>11.00 PERFORMANCE STANDARDS</u>	111
11.01	COMPLIANCE	111
11.02	AIR POLLUTION	111

11.03	FIRE AND EXPLOSIVE HAZARDS	111
11.04	GLARE AND HEAT	111
11.05	WATER QUALITY PROTECTION	111
11.06	NOISE	111
11.07	ODORS	112
11.08	RADIOACTIVITY AND ELECTRICAL DISTURBANCES	113
11.09	VIBRATION	113
11.10	CONSTRUCTION SITE EROSION CONTROL	113
SECTION	<u>12.00 ZONING BOARD OF APPEALS</u>	<u>132</u>
12.01	ESTABLISHMENT	132
12.02	MEMBERSHIP	132
12.03	ORGANIZATION	132
12.04	POWERS	132
12.05	APPEALS AND APPLICATIONS	133
12.06	HEARINGS	133
12.07	FINDINGS	134
12.08	DECISION	134
12.09	REVIEW BY COURT OF RECORD	134
SECTION	<u>13.00 CHANGES AND AMENDMENTS</u>	<u>135</u>
13.01	AUTHORITY	135
13.02	INITIATION	135
13.03	PETITIONS	135
13.04	REVIEW AND RECOMMENDATIONS	135
13.05	HEARINGS	135
13.06	TOWN BOARD'S ACTION	135
13.07	PROTEST	135

<u>SECTION</u>	<u>14.00 PUBLIC HEARINGS</u>	<u>137</u>
14.01	PUBLIC HEARINGS	137
<u>SECTION</u>	<u>15.00 DEFINITIONS</u>	<u>138</u>
15.01	GENERAL DEFINITIONS	138
15.02	SPECIFIC WORDS AND PHRASES	138
<u>SECTION</u>	<u>16.00 ADOPTION AND EFFECTIVE DATE.....</u>	<u>154</u>
16.01	VILLAGE POWERS.....	154
16.02	PLAN COMMISSION RECOMMENDATION.....	154
16.03	PUBLIC HEARING	154
16.04	TOWN BOARD APPROVAL	154
16.05	EFFECTIVE DATE	154

Draft for Public Hearing 11-10-09

TOWN OF WEST BEND

TOWN OFFICIALS

Town Board

Chairman Paul Rice
 Supervisors..... Donald Berchem
 Joseph Spaeth

Town Plan Commission

Chairman Michael Holz
 Secretary Tod Maclay
 Members..... John Behrens
 James Heipp
 Robert Werner

Zoning Board of Appeals

Chairman Leon Krueger
 Secretary..... Mary Smith
 Members..... Janice Gesch
 Arland Stellmacher
 Larry Phillips
 Gerald Wold

Alternates 1st: Richard Cooley
 2nd: Ronald Hale

Town Clerk Rebecca Schuster

Deputy Clerk Mary Smith

Town Zoning Administrator Gordon Hoffmann

Building Inspector..... Frank Meyer

Town Attorney..... Gerald Kiefer

ZONING ORDINANCE FOR THE TOWN OF WEST BEND, WISCONSIN

SECTION 1.00 STATUTORY AUTHORITY AND PURPOSE

1.01 AUTHORITY

These regulations are adopted under the authority granted by Sections 60.62, 61.35, and 62.23(7) of the Wisconsin Statutes. Therefore, the Town Board of West Bend, Wisconsin does ordain as follows:

1.02 PURPOSE

The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics, and general welfare of this community.

1.03 INTENT

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands, and waters; regulate and restrict lot coverage, population distribution, and density; and regulate and restrict size and location of all structures so as to: lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic, and other dangers; provide adequate light, air, sanitation, and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; facilitate the use of solar energy devices and other innovative development techniques; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the community; and implement the community's comprehensive plan or plan components. To this end, it is further intended to provide for the administration and enforcement of this Ordinance and to provide penalties for its violation.

1.04 ABROGATION AND GREATER RESTRICTIONS

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

1.05 INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements and shall be liberally construed in favor of the Town and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

1.06 SEVERABILITY

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

1.07 REPEAL

All other ordinances or parts of ordinances of the Town inconsistent or conflicting with this Ordinance, to the extent of the inconsistency only, are hereby repealed.

1.08 TITLE

This Ordinance shall be known as, referred to, or cited as the "ZONING ORDINANCE, TOWN OF WEST BEND, WISCONSIN."

1.09 EFFECTIVE DATE

This Ordinance shall be effective after a public hearing, adoption by the Town Board of Trustees, and publication or posting as provided by law.

Draft for Public Hearing 11-10-09

SECTION 2.00 GENERAL PROVISIONS**2.01 JURISDICTION**

The jurisdiction of this Ordinance shall include all lands and waters within the corporate limits of the Town of West Bend.

2.02 COMPLIANCE

No structure, land, or water shall hereafter be used and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered except in conformity with the regulations herein specified for the district in which it is located.

2.03 DUTIES OF THE ZONING ADMINISTRATOR

The Town Zoning Administrator is hereby designated as the administrative and enforcement officer for the provisions of this Ordinance. The duty of the Zoning Administrator shall be to interpret and administer this Ordinance and to issue, after on-site inspection, all permits required by this Ordinance. The Zoning Secretary shall assist the Zoning Administrator in the administration and enforcement of the Ordinance. The Zoning Administrator shall further:

- A. Maintain Records of all permits issued, inspections made, work approved, and other official actions.
- B. Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance.
- C. Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters; give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises; and report uncorrected violations to the Town Attorney in a manner specified by him.
- D. Assist the Town Attorney in the prosecution of Ordinance violations.
- E. Access to premises and structures by the Building Inspector shall be permitted during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with Section 66.122 of the Wisconsin Statutes.
- F. Prohibit the use or erection of any structure, land or water until the Building Inspector has inspected and approved such use or erection.
- G. Request Assistance and cooperation from the Town Police Department and Town Attorney as deemed necessary.
- H. Attend all meetings of the Town Plan Commission and the Town Zoning Board of Appeals.

2.04 ZONING PERMIT REQUIRED

No structure shall hereafter be located, erected, moved, reconstructed, extended, enlarged, or structurally altered until after the owner or his agent has secured a zoning permit from the Building Inspector, unless otherwise exempted pursuant to Section 2.05 of this Ordinance. Applications for a zoning permit shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following where applicable:

- A. Name and Addresses of the applicant, owner of the site, architect, professional engineer, and contractor.
- B. Description of the Subject Site by lot, block and recorded subdivision, or metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- C. Plat of Survey prepared by a registered land surveyor showing the location, boundaries, dimensions, elevations, or where deemed appropriate by the Zoning Administrator, a location sketch drawn to scale. The scale shall not be smaller than 1" = 50'. The plat or sketch shall show uses, and sizes of the following: subject site; existing and proposed structures; all existing and proposed easements (including sanitary, sewer, septic systems, and filter beds), streets, and other public ways; off-street parking, loading areas and drive-ways; existing highway access restrictions; and existing and proposed street, side, and rear yards. In addition, the plat of survey shall show the location, elevation, and use of any abutting lands and their structures within 40 feet of the subject site.
- D. A photocopy of Any Necessary Shoreland or Floodplain Zoning Permits secured from the Washington County Land Use and Park Department.
- E. A Photocopy of any Necessary Sanitary Permits secured from the Washington County Land Use and Park Department.
- F. Proposed Water Supply Plan, showing the location of any private well, if municipal water service is not available.
- G. Additional Information as may be required by the Town Board, Plan Commission, or the Town Zoning Administrator/Building Inspector.
- H. A Zoning Permit in a residential district shall be granted or denied in writing by the Zoning Administrator within 9 working days. Business and industrial zoning permits shall be granted or denied in writing within 31 calendar days. Conditional use permits shall be granted or denied in writing within 60 calendar days. Permits shall expire 12 months after issuance unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

2.05 USES NOT REQUIRING A ZONING PERMIT

No zoning permit shall be required for any of the following cases:

- A. For Building An Accessory Building less than 100 square feet in area.
- B. For Any Improvement or alteration to an existing building less than 100 square feet in area which does not effect a change in use.
- C. For Repairs that does not alter the size or position of an existing structure on a lot. Such repairs shall not include the replacement or alteration of bearing walls.

- D. However, any work that qualifies for an exemption under this section shall be required to comply with the applicable setback, yard, height, and other requirements set forth in this Ordinance.

2.06 CERTIFICATE OF COMPLIANCE REQUIRED

- A. No Vacant Land shall be occupied or used; and no building or premises shall be erected, altered, or moved, or create a change in use; and no nonconforming use shall be maintained, renewed, changed, or extended until a certificate of compliance shall have been issued by the Zoning Administrator. Such certificate shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such certificate shall be applied for at the time of occupancy of, any land and/or building.
- B. No Building located in a business or industrial zone and used for business or industrial purposes shall be occupied by a new tenant or a new owner or shall have the use changed without the issuance of a new certificate of compliance by the Zoning Administrator. Such certificate shall show that the building or premises or part thereof is in compliance with the provisions of the Zoning Ordinance, Building Code, Electrical Code, Fire Prevention Code and the Plumbing Code of the Town of West Bend and State of Wisconsin. Such certificate for the occupation of a previously existing building by a new tenant or use shall be applied for at the time of any remodeling of the building or prior to the occupancy for the new use or by the new owner. Application for a certificate of compliance shall be made in the same manner as for a zoning permit pursuant to Section 2.04 of this Ordinance.

2.07 CONDITIONAL USE PERMIT REQUIRED

See Section 5.00.

2.08 DEVELOPERS AGREEMENT REQUIRED

All development, which occurs in any business or industrial district, shall require the execution of a developer's agreement, which covers in some detail the manner and methods by which the land will be developed. Any development or land division that involves a new road, public or private, in any residential district shall be subject to the same conditions. The Town Board may impose time limits for the completion of projects and may require the execution of an irrevocable letter of credit or other appropriate surety to guarantee that the project will be completed on schedule.

2.09 SIGN PERMIT REQUIRED

See Section 8.00.

2.10 OTHER PERMITS

It is the responsibility of the permit applicant to secure all other necessary permits required by any state, federal, or county agency. This includes, but is not limited to, a floodland development permit from the Washington County Land Use and Park Department.

2.11 SITE RESTRICTIONS

No land shall be used or structure erected where the land is unsuitable for such use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography, low percolation rate or bearing strength, erosion susceptibility, or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of this community. The Town Building Inspector, in applying the provisions of this section, shall in writing recite the particular facts upon which he bases his conclusion that the land is not suitable for

certain uses. The applicant shall have an opportunity to present evidence contesting such unsuitability if he so desires. Thereafter the Town Plan Commission may affirm, modify, or withdraw the determination of unsuitability. In addition:

- A. All Lots shall abut a public street, and each lot shall have a minimum frontage of 66 feet except where a lot does not meet the required frontage but has access to a public street, and was a lot of record with the Washington County Register of Deeds on April 1, 1986. Such lot may be occupied by any permitted or conditional use of the Zoning District within which the lot is located, provided that such proposed use complies with all other applicable provisions of this ordinance.
- B. All Principal Structures shall be located on a lot; and only 1 principal structure shall be located, erected, or moved onto a lot in a single-family district; except, however, that the Town Board may permit more than 1 principal structure to be located on a lot in a single-family district by authorizing the issuance of a Conditional Use Permit with uses and conditions as set forth in Section 5.06 of this Ordinance. The Plan Commission may permit more than 1 structure per lot in other districts where more than 1 structure is needed for the orderly development of the parcel. Where additional structures are permitted, the Plan Commission (or Town Board when authorizing the issuance of a Conditional Use Permit) may impose additional yard requirements, landscaping requirements, or parking requirements, or require a minimum separation distance between principal structures.
- C. Street Grade: Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Building Inspector as being in satisfactory relationship with the existing street grade, with particular consideration for proper drainage and safe vehicular access.
- D. Preservation of Topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining land, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope to a ratio greater than 1-1/2 horizontal to 1 vertical within a distance of 20 feet from the property line, except with the written consent of the abutting property owner and with the approval of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall any slope exceed the normal angle of slippage of material involved, and all slopes shall be protected against erosion.
- E. No Zoning Permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.
- F. Lots Abutting More Restrictive district boundaries shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yards on the less restrictive district shall be modified for a distance of not more than 75 feet from the district boundary line so as to equal the average of the street yards required in both districts.

2.12 USE RESTRICTIONS

The following use restrictions and regulations shall apply:

- A. Principal Uses: Only those principal uses specified for a district, their essential services, and the following uses shall be permitted in that district.
- B. Accessory Uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade, or industry except home occupations and professional home offices as defined in this Ordinance.

- C. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Board after receiving a recommendation from the Plan Commission in accordance with Section 5.00 of this Ordinance.
- D. Unclassified or Unspecified Uses may be permitted by the Town Board provided that such uses are similar in character to the principal uses permitted in the district.
- E. Temporary Uses, such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure, may be permitted by the Town Board.
- F. Household Pets such as dogs and cats are permitted in any district provided, however, that no premise shall be permitted to house or keep more than 4 adult household pets. Adult household pets are those 4 months of age or older.
- G. Domestic Livestock may be kept on any parcel of land 5 acres or more in area, provided that not more than 1 animal unit shall be permitted for each 2.5 acres of land. Domestic Livestock shall not be permitted in recorded subdivisions, as defined in Chapter 236 of the Wisconsin Statutes, with the exception of conservation developments as listed in Sections 4.03-I and 4.03-II. Livestock on existing farms, 20 acres of more in area, shall not be subject to the 1 animal unit per 2.5 acre limitation.
1. 1 animal unit is defined as:
 - (a) 1 horse, cow, or similar large animal in size, over 6 months of age.
 - (b) 2 sheep, goats, or similar animal over 6 months of age.
 - (c) 10 rabbits or hares over 2 months of age.
 - (d) 10 chickens, ducks, geese, or similar fowl over 2 months of age.
 2. Combinations of the above shall be permitted provided that they do not exceed 1 animal unit per 2.5 acres.
- H. Swimming Pools and Hot Tubs are a permitted accessory use in any district provided that:
1. All swimming pools shall be surrounded by a fence not less than 4 feet or more than 6 feet in height. Sidewalls of above-ground pools 4 feet high may be used in lieu of a fence;
 2. Access to the swimming pool shall be controlled by a self-latching gate and all such gates shall be kept securely closed and locked at all times when the owner or occupant is not present at the pool. For an aboveground pool, a tip-up ladder may be provided in lieu of a gate. For a hot tub, a tightly closed cover may be provided in lieu of a gate.
 3. Swimming pools and hot tubs shall not be constructed directly over or under electric transmission lines. All electrical connections to a swimming pool or hot tub shall be properly grounded so that no electrical current can be discharged into any part of the hot tub, swimming pool or the surrounding fence;
 4. No water drained from a swimming pool or hot tub shall be discharged onto or into any on-site sanitary sewerage system, public sewerage system or directly into a navigable body of water;
 5. No lighting installed around swimming pools or hot tubs shall throw any rays onto adjacent properties;

6. Swimming pools and hot tubs shall comply with the yard requirements for principal structures in the district in which they are located.

I. Abandoned Motor Vehicles and other Materials

1. No disassembled, dismantled, junked, wrecked, inoperable or unlicensed vehicle shall be stored or allowed to remain in the open upon private property within the Town of West Bend 10 days after receiving written notice from the Zoning Administrator to remove or enclose the same unless;
 - (a) The vehicle is being held as a part of an automotive sales or repair business enterprise located within a properly zoned area;
 - (b) Due to individual hardship a variance to keep the vehicle is obtained from the Board of Appeals, but such variance shall, if granted, not exceed 1 year.
2. The accumulation or storage of tractors, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, junk, wood, brick, cement block or other unsightly debris which may tend to depreciate property values in the area or create a nuisance or hazard shall not be allowed on any lot or parcel of land within the Town of West Bend, except as permitted in 5.08 A, operating under a Conditional Use Permit, or elsewhere if completely housed and out of public view.

J. No Mobile Home, Mobile Home Park or trailer camp shall be placed or moved onto lands lying within the Town of West Bend.

K. Gas and Electric Utility Uses which have been issued a Certificate of Public Convenience and Necessity pursuant to Section 196.491(3) of the Wisconsin Statutes are exempt from 'the requirements of this Ordinance, and shall not be required to obtain a zoning permit or Certificate of Compliance.

L. Storage of Motor Vehicles: The outdoor storage of an inoperable motor vehicle on a residential property shall not be permitted for more than 2 weeks. The stored vehicles shall be in the side yard, within the setbacks.

2.13 REDUCTION OR JOINT USE

No lot, yard, parking area, building area, or other space shall be reduced in area or dimension so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, or other space required for a structure or use shall be used for any other structure or use.

2.14 CONSERVANCY REGULATIONS

- (A) In addition to any applicable use, environmental protection, landscape (see Section 11.11), site, or sanitary regulations, the following regulations shall apply within all Environmental Conservancy Districts (see Section 15.00 for definition) and those areas zoned C-1, C-2 or P-1. "Tree Cutting and Shrubbery Clearing for the purpose of development, construction or changing land use from wildlife or wood lot management requires review and approval by the Town Plan Commission and shall be so regulated as to prevent erosion and sedimentation and promote preservation of scenic and other aesthetic and environmental qualities.

1. Tree cutting and shrubbery clearing for building and site development, access roads, parking areas and path and trail construction shall not exceed 20% of the existing trees, shrubbery or underbrush on the lot or tract unless otherwise approved by the Town Plan Commission.

2. Tree cutting and shrubbery clearing areas shall not exceed the following dimensions unless otherwise approved by the Town Plan Commission:

 - (a) Paths and Trails, 10 feet in width
 - (b) Driveways, 30 feet in width or 5 feet beyond the edge of pavement (whichever is less)
 - (c) Roads, 60 feet in width or 15 feet beyond the edge of the paving (whichever is less)
 - (d) Parking Areas 70 feet in width or 5 feet beyond the edge of the paving (whichever is less)
 - (e) Homes and other Principal Structures, 40 feet beyond the edge of the roof
 - (f) Garages and other Accessory Structures, 20 feet beyond the edge of the roof
 3. All structures and site features shall be so designed and constructed as to result in the least removal and disruption of woodland cover and the minimum impairment of natural beauty.
 4. All deciduous trees 5 inches or larger in caliper or coniferous trees 10 feet in height or greater shall be preserved unless it is demonstrated to the satisfaction of the Town Plan Commission that they will unduly restrict development of the site.
 5. All deciduous trees 5 inches or larger in caliper or coniferous trees 10 feet in height or greater destroyed during the development process which were not identified for destruction in the approved landscape plan shall be replaced.
 6. Forestation, reforestation, or landscaping shall utilize a variety of tree species and no species currently under disease epidemic shall be used. Species planted shall be hardy under local conditions and compatible with the local landscape.
 7. Customary minor trimming, timberstand improvement, dead and diseased tree removal, and managed timber harvesting shall be permitted under the recommendation of a professional forester.
 8. The Plan Commission may require a surety or assess a fee other instrument to enable the Town to carry out land restoration work in the event of non-compliance with this regulation.
- (B) Earth Movements such as grading, topsoil removal, filling, road cutting, construction, altering or enlargement of waterways, removal of stream or lake bed materials, excavation, channel clearing, ditching, dredging, lagooning, and installation of soil and water conservation structures require review and approval by the Town Plan Commission, in addition to any permit required from the county, state or federal agency having jurisdiction. Earth movements shall be so regulated as to prevent erosion and sedimentation and to least disturb the natural flora, watercourse, water regiment, or topography.

SECTION 3.00 FEES AND PENALTIES**3.01 PERMIT FEES**

All persons, firms, or corporations performing work which by this Ordinance requires the issuance of a permit shall pay a fee for such permit to the Town of West Bend to help defray the cost of administration, investigation, advertising, and processing of permits and variances. The permits for which a fee is required are the zoning permit, Conditional Use Permit, Certified Survey Map Review, and Sign Permit. A fee shall also be required for a Zoning Text or Map Amendment, and a zoning appeal or variance. All fees shall be established by separate resolution by the Town Board from time to time as deemed appropriate.

3.02 DOUBLE FEE

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

3.03 VIOLATIONS

It shall be unlawful to use or improve any structure or land, or to use water or air in violation of any of the provisions of this Ordinance. In case of any violation, the Town Board, the Zoning Secretary, the Zoning Administrator/Building Inspector, the Plan Commission or any property owner who would be specifically damaged by such a violation, may institute appropriate action or proceeding to enjoin a violation of this Ordinance or cause a structure to be vacated or removed.

3.04 REMEDIAL ACTION

Whenever an order of the Building Inspector has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Town Board, the Zoning Administrator/Building Inspector, or the Town Attorney may institute appropriate legal action or proceedings to prohibit such owner, agent, or occupant from using such structure, land, or water.

3.05 PENALTIES

Any person, firm, or corporation who fails to comply with the provisions of this Ordinance or any order of the Zoning Administrator/ Building Inspector issued in accordance with the Ordinance or resists enforcement shall, upon conviction thereof, forfeit not less than \$20 nor more than \$200 and costs of prosecution of each violation and in default of payment ' of such forfeiture and costs shall be imprisoned in the County Jail until payment thereof, but not exceeding 30 days. Each day a violation exists or continues shall constitute a separate offense.

3.06 REVIEW AND ADMINISTRED FEE

The applicant shall pay a fee equal to the actual cost to the Town for all legal, engineering and planning work incurred by the Town in connection with proposed developments, permits and other matters pertaining to zoning review.

Engineering work shall include the preparation of construction plans and standard specification. The Town Engineer may permit the applicant to furnish all, some or part of the required construction plans and specifications, in which case no engineering fees shall be levied for such plans and specification. Planning work may include concept plan and review, conditional use review, and other work as directed by the plan Commission.

SECTION 4.00 ZONING DISTRICTS

4.01 ESTABLISHMENT

For the purpose of this Ordinance, the Town of West Bend is hereby divided into 4 basic use districts as follows:

Residential District which is comprised of R-1N (Neighborhood Residential District), R-1R (Rural Residential District), R-1S (Shoreland Residential District), and R-1S/MU (Shoreland Residential/Mixed-Use District);

Business District which is comprised of B-1 (Commercial/Mixed/Use District) and B-2 (Commercial/Mixed/Use District);

Industrial District which is comprised of M-1 (Industrial District);

Conservancy District which is comprised of C-1 (Conservancy District) and C-2 (Conservancy Overlay District);

Park District which is comprised of P-1 (Public and Private Park District).

- A. Boundaries of these districts are hereby established as shown on the map entitled "Town of West Bend Amended Zoning", which map accompanies and hereby made a part of this Ordinance. Unless otherwise noted on such zoning map, the boundaries shown on such map shall be construed to follow: corporate limits; U. S. Public Land Survey lines; environmental features as designated and mapped by the Southeast Wisconsin Regional Planning Commission (SEWRPC) or other designated authorities; lot or property lines; centerlines of streets, highways, alleys, easements, and railroad rights-of-way or such lines extended.
- B. Vacation of public streets and alleys shall cause the vacated land to be automatically placed in the same district as the abutting side to which the vacated land reverts.

4.02 ZONING MAP

A certified copy of the Map entitled "Town of West Bend Zoning Map" shall be adopted and approved with the text as part of this Ordinance and shall bear upon its face the attestation of the Town Chairman and Town Clerk and shall be available to the public in the office of the Town Clerk. Changes, thereafter, to the zoning districts, shall not become effective until entered and attested on the certified copy.

4.03 – I R-1N NEIGHBORHOOD RESIDENTIAL DISTRICT

- A. Purpose and Characteristics: The R-1N Residential District is primarily intended to provide for new or existing single-family residential uses in conservation developments or minor land divisions, existing single-family residential uses in conventional developments, and existing agricultural uses. Base density for the District, as defined in Section 15.00, is 1 unit per 2.5 acres. Bonus density may be allowed as described in subsection F of this section 4.03-I.

Conservation developments protect the existing character of an area, and allow for smaller residential lots clustered together. Conservation developments also provide common open space linked throughout the development. Such development is consistent with the Town's Comprehensive Plan goals, which include the preservation of the natural landscape and quality of life as priorities in the future development of the Town. New conventional developments may be allowable only as a conditional use in this district.

B. Permitted Principal Uses

1. Single-family dwellings with an attached garage in a conservation development.
2. Essential services as defined in Section 15.00.
3. Farms and agricultural uses existing at the time of adoption of this Ordinance.
4. Existing single-family dwellings with an attached garage in a conventional development at the time of adoption of this Ordinance.
5. Single-family dwellings with an attached garage in a minor land division created by Certified Survey Map as described in subsection J of this section 4.03-I.

C. Permitted Accessory Uses

1. Private garages and carports.
2. Gardening, tool and storage sheds incidental to the residential use.
3. Home occupations and professional home offices.
4. Roof-mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.

Accessory Structures are permitted in the rear and side yards only. Accessory Structures shall use like materials and colors to those of the Principal Structure.

D. Conditional Uses

See Sections 5.05, 5.06, and 5.11.

E. Design Process and Standards for Conservation Developments

1. The following is the site design, review and approval process for conservation developments. The site developer should follow the process listed below as well as any additional requirements as deemed appropriate by the Zoning Administrator or Plan Commission:

- (a) Create an **Environmental and Cultural Resources Diagram** for the site and surrounding area that identifies all existing environmental and cultural features and possible new common open space features (as defined in Section 15.00) to be created on the site. The analysis must include all county, state, and federally protected areas such as wetlands, lakes and streams. A minimum of 30% common open space is required for all conservation developments.

Existing natural environmental and cultural features to be identified and mapped, as applicable:

- Primary Environmental Corridors, Secondary Environmental Corridors, and Isolated Natural Resource Areas (as identified by the Southeastern Wisconsin Regional Planning Commission [SEWRPC])
- Environmental Conservancy areas as shown on the Land Use Plan map in the Town Comprehensive Plan
- Wetlands, including 75' buffer along wetland edges
- Lakes and streams, including a 75' buffer from the ordinary high water mark
- 100 year floodplains and floodways
- Drainage ways, including a 25-foot buffer
- Depth to groundwater
- Soil series, types and phases, as mapped by the U.S. Department of Agriculture
- Site topography
- Geologic formations including rock outcroppings, cliffs and glacial features such as eskers, kames, drumlins, and kettles
- Ridge lines and watershed boundaries
- Woodlands as defined by SEWRPC
- Prairie habitat areas of rare species and natural communities recorded in the Wisconsin Natural Heritage Inventory (NHI)
- Class I, II, III wildlife habitat areas identified by SEWRPC
- Slopes of 12% or greater
- Prime Agricultural Land as defined by SEWRPC
- Farmland contiguous to existing farmland in neighboring parcels
- Farmstead clusters, including agriculturally-related outbuildings
- Historic buildings or structures identified by the Wisconsin Architecture and History Inventory (WAHI) or other buildings of local cultural significance
- Inventoried historic or prehistoric archeological sites
- Existing roads, paving, buildings, utilities, easements, boundaries, planned land uses and zoning on and adjacent to the site
- Additional land conditions on and adjacent to the property according to general land cover type, including cultivated land, permanent grass land, meadow, pasture, prairie, hedgerows, etc.

Other possible areas to be created as common open space (See Section 15, “Common Open Space” definition for descriptions):

- Countryside Views
- Environmental Preserves
- Environmental Restoration
- Parkway Landscapes
- Traditional Farmsteads
- Cultivated Fields and Pastures
- Orchards
- Trail Corridors and Walkways
- Scenic Drives
- Equestrian Common Open Spaces and Features
- Forestation Areas
- Neighborhood Parks and Squares
- Play Areas
- Landscaped Boulevards
- Landscaped Cul-de-sac Islands
- Gateway Features
- Ornamental and Display Gardens
- Community Garden and Greenhouse
- Other Significant Common Open Space Features

(b) Review the **Environmental and Cultural Resources Diagram** and visit the site with Town representatives to evaluate important site features. The Town may require that a qualified ecologist, engineer, or land planner be included as part of the review. Establish an agreement between all parties as to what is valuable and should be preserved and/or created.

(c) Create a **Common Open Space Diagram** with items on the site to be preserved and/or created for Plan Commission review and acceptance.

(d) Present the **Common Open Space Diagram** to the Plan Commission for review and finalization of which common open space features to preserve and/or create.

(e) Create 3 conceptual **Sketch Diagrams** using the accepted **Common Open Space Diagram** in consultation with Town staff and other plan reviewers. All 3 **Sketch Diagrams** should retain the agreed upon common open space features to the largest extent possible and be acceptable development scenarios that the developer would be willing to pursue if approved.

The following development design criteria should be used when creating the conservation development concepts:

- **Protect important existing environmental and cultural resources**

Protect all existing town, county, state, and federally regulated environmental and cultural resources and all other significant existing environmental and cultural resources identified on accepted **Common Open Space Diagram**.

- **Integrate common open space features into the design.**

Arrange the overall neighborhood design so as to create attractive and meaningful recreational, scenic and gathering areas for general public as well as the private development. Locate significant open spaces so they can be enjoyed by all residents without intruding upon the privacy of others. A minimum of 30% common open space is required for all conservation developments.

Organize open space features so they feel like common areas rather than mere extensions of the private lots. Place open spaces so that they can be accessed by the entire neighborhood. Place significant common spaces at the fronts or sides of properties and adjacent to neighborhood roadways and link these common areas with trails and pathways.

- **Locate houses to minimize disruption to the natural character.**

Locate houses such that (a) the houses are sited around open spaces that include natural environmental areas, fields, woodlands, pastures, or farmland (b) the houses are grouped together in ways that create large, clear naturally landscaped areas between groups of houses, and (c) the houses will be visually overshadowed by important natural features such as woodlands, hedgerows, hills, or other key features of the landscape.

Locate houses so as to minimize the length of time the house is visible to drivers on public roads — do this by placing houses behind landscape elements or natural features that reduce visibility of the house. Minimize the degree to which houses are prominently featured on ridges and hilltops, especially when they are visible to other houses and the public roads. (See Section 11.11 for specific landscape requirements for buffer areas)

- **Preserve and integrate landscape elements.**

Try to make the groups of houses seem like separate developments intertwined by a continuous system of landscape elements and natural features — use landscape elements (fields, hedgerows, woodlands) as separations between groups of houses. Landscape elements should include varied plant species and maintain the natural, rural character of the Town. Naturalized landscape areas (including berms) should not be mowed, except for the purpose of annual maintenance.

- **Group houses together.**

Groupings of 4 to 5 units are preferable, but larger groupings (perhaps as many as 8 units) could be satisfactory if there are larger open spaces and natural areas around and between them.

- **Connect the landscaping.**

Extend and connect the existing natural areas and environmental corridors with new plantings and landscaping that match the existing plantings and landscape. Create continuous landscape edges along public roads and between groups of houses using mixtures of species that create a varied image as the seasons change.

- **Link trail systems.**

Link natural features between parcels with a trail system which continues throughout the town. Create features of cul-de-sacs. Minimize the use of cul-de-sacs except where necessary to preserve a natural feature. Include planting in the cul-de-sac and create formal shapes to provide a front “green” for the surrounding homes.

- **Road design.**

Design roads (and adjacent landscapes) so as to minimize (a) the number of houses that are seen from roads and (b) the length of time houses are seen from the road. When houses are visible from roads, try to create compact groups with clear open or natural areas between the groups. Where feasible, design roads with straight alignments that are aimed at natural vistas with no buildings in them. Use curves to slow traffic naturally, rather than to accommodate increased speed.

- **Include scenic drives.**

Encourage the creation of scenic drives where houses are located only on one side of a road and natural landscapes are preserved on the other side. Preserve existing scenic drives in order to protect the natural character of the neighborhood.

- **Create walking and hiking trails.**

Create walking and hiking trails that are adjacent to public roads and act as buffers to residential uses. Integrate walking and hiking trails with the geometry and pattern of roads.

- (f) Provide the 3 conceptual **Sketch Diagrams** to the Plan Commission for review and possible conceptual approval.

The Plan Commission may evaluate these alternatives according to the following criteria:

- (1) The degree to which **Common Open Space Diagram** has been integrated into the overall site design.
 - (2) The degree to which the conservation development design criteria have been integrated into the overall site design.
 - (3) The degree to which the site design conforms to the dimensional and minimum open space requirements and allowable number of units as described in this section.
 - (4) The degree to which the overall design and common open space concept can be implemented based on the Town of West Bend Land Division Ordinance and other relevant town, county, state, and federal regulations.
 - (5) Whether the site design creates a visually appealing development that supports the overall goals of Town of West Bend as expressed in the Comprehensive Plan.
- (g) The Plan Commission shall review the 3 conceptual **Sketch Diagrams** and take one of the following actions:
 - (1) Approve one of the 3 conceptual **Sketch Diagrams** as presented;
 - (2) Approve one of the 3 conceptual **Sketch Diagrams** with conditions. The applicant shall make appropriate revisions and present a revised diagram to the Plan Commission;
 - (3) Deny approval of all 3 conceptual **Sketch Diagrams**. The applicant may develop additional concepts for Plan Commission review.
 - (h) Prepare **Preliminary and Final Plats** for Town approval based on the approved conceptual sketch diagram. Work with Town staff and reviewers to translate approved conservation development design into final plans.

F. Calculation of allowable number of units in conservation developments

To determine the allowable number of units, the following steps shall be taken:

1. Determine the total acreage of the site.
2. Determine the total acreage of common open space to be preserved or created as agreed upon during the design process. A minimum of 30% common open space is required for all conservation developments. One additional unit will be awarded for every 2.5 acres of designated common open space preserved or created beyond the 30% minimum common open space.
3. Add the total acreage of the site to the acreage of common open space beyond the 30% minimum required. Divide this number by 2.5 (acres) to determine the number of allowable units.

$$\text{Lots Possible} = \frac{\text{Total Acres} + (\text{Common Open Space Acres} - 30\% \text{ of Total Acres})}{2.5}$$

R-1N Conservation Development Calculations

Base Density = 1 unit/2.5 acres

1 acre minimum lot size

Total Acres

100											30% min. Common Open Space
Acres of Common Open Space	>50	50.0	47.5	45.0	42.5	40.0	37.5	35.0	32.5	30.0	
Maximum Lots Possible	*	48	47	46	45	44	43	42	41	40	

* Preserving beyond 50 acres would be permissible, but the number of lots are restricted by the amount of acreage available.

Example:

Total acreage of site = 100 acres

Total acreage of common open space to be preserved or created = 45 acres

Total allowable number of units = $100 + (45 - 30) / 2.5 = 46$ units

Note: The total number of buildable units that are feasible on any parcel will vary depending on several factors including but not limited to the following; the location and size of wetlands, streams or lakes, soil type, site topography, average lot size, total road area, and general creativity of the designer. When calculations yield numbers with decimals, the allowable number of lots shall be rounded down to the nearest whole number.

G. R-1N Conservation Development Site Dimensional Standards

Lot	Width Minimum	120 feet*	
	Area Minimum	1 acre	
Principal Structure	Area Minimum	1,500 square feet	
	Height Maximum	35 feet	
Accessory Structures	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels 5 acres or more	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	40 feet (from the street right-of-way)	
	Side	25 feet	
	Rear	40 feet	
	Shoreland	75 feet ****	
Minimum Setbacks of Lots	From external arterial street rights-of-way	100 feet	
	From scenic roads	100 feet	
	From all other external street rights-of-way	50 feet	

* Measured at the setback

** Whichever is less

*** See Section 7.00 for modifications

**** Measured from the Ordinary High Water Mark

***** Accessory Structures are not permitted in the Street or Shore Yard

H. R-1N Existing Conventional Development and Minor Land Division Site Dimensional Standards

Lot	Width Minimum	120 feet *	
	Area Minimum	1.5 acres	
Principal Structure	Area Minimum	1,500 square feet	
	Height Maximum	35 feet	
Accessory Structures	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels 5 acres or more	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	50 feet (from the street right-of-way)	
	Side	25 feet	
	Rear	50 feet	
	Shore	75 feet *****	

* Measured at the setback

** Whichever is less

*** See Section 7.00 for modifications

**** Measured from the Ordinary High Water Mark

***** Accessory Structures are not permitted in the Street or Shore Yard

See Section 5.06 for Site Dimensional Standards for **New** Conventional Developments.I. Ownership of Common Facilities and Common Open Space in Conservation Type Developments

The following methods may be used, either individually or in combination, to own common facilities and *common* open space:

1. Homeowner's Association

Common facilities and open space shall be held in common ownership as undivided proportionate interests by

the members of the association. The homeowner's association shall be governed according to the following:

- (a) The applicant shall provide to the Town a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for the common areas.
- (b) Membership in the association shall be mandatory for all purchasers of lots.
- (c) The members of the association shall share equitably the costs of maintaining and operating the common facilities and common space.
- (d) The association shall have or hire adequate staff to maintain the common facilities and common space.
- (e) The association is responsible for the maintenance of the common facilities and open space. In the event the association does not maintain the common properties, the Town will maintain the common properties and assess the association members as necessary.
- (f) The association shall hold a conservation easement or deed restriction on the common open space land and common facilities to protect them from development.
- (g) The association shall provide for proper maintenance of shared septic systems, and common open space areas including, but not limited too, review of installation and ongoing repair, modification and maintenance.
- (h) The Town shall have the authority to special assess landowners for the preservation, restoration, or maintenance of shared septic systems and common open space features which are deemed by the Town Board to be noxious, hazardous, or a nuisance to the general public welfare.

2. Transfer of Ownership

- (a) Transfer of easements to a private or public conservation organization is acceptable if approved by the Town Board.
- (b) Ownership may be retained by the original landowner if the Town and residents of the development hold conservation easements on the land, protecting it from any further development.

3. Leasing of Conservation Land

- (a) Common open space land may be leased to another person or entity for the use, operation and maintenance if it is approved by the Town Board and provided that:
 - i. The residents of the development shall have at all time have access to the leased lands, except in the case of lease of agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the land.
 - ii. The land to be leased shall remain as mainly undeveloped open space whose character and uses are compatible with the overall goals and rural character of the Town and this ordinance.
 - iii. Lease agreements shall be recorded in the office of the county register of deeds within 30 days of execution and a copy shall be provided to the Town of West Bend.

4. Land Stewardship Plan

- (a) A land stewardship plan shall be prepared by a qualified landscape architect or ecologist describing the restoration, preservation and maintenance goals and methods for all common open space areas and features.
- (b) The land stewardship plan goals and methods should be implemented by a qualified landscape or ecological restoration organization
- (c) The land stewardship plan must, at minimum, be updated every 5 years to reflect changing conditions.
- (d) Copies of the original and updated land stewardship plans shall be provided to the Town.
- (e) In the event the association does not implement and/or update the land stewardship plan, the Town will implement and/or update the plan and assess the association and/or association members as necessary.

5. Rezoning

- (a) Common open space land may be rezoned to the P-1 Public and Private Park District provided it is desired by the landowners and approved by the Town Board.

J. Minor Land Division

Parcels containing at least 5 acres at the time of a minor land division may be so divided into one or more single lots of 1.5 acres minimum size, with a density not to exceed 1 unit per 2.5 acres, by a Certified Survey Map (CSM) complying with the Town's land division ordinance and Chapter 236 of the Wisconsin statutes.

As part of the land division approval process, the applicant shall identify and map all existing site and adjacent natural environmental and cultural features as listed in Section 4.03 – II, E 1(a). To the greatest extent possible, those significant environmental and cultural resources identified for preservation by the Plan Commission and Town Board or other relevant sections of this or other ordinances shall be protected during any subsequent land division, development, or construction activities.

That area of land that is located within the Environmental Conservancy District (see Section 15.00 for definition) shall be excluded from the density calculation. (Note: Approximate locations of these areas are shown for reference in the Town's Comprehensive Plan as "Environmental Conservancy Districts")

A prior minor land division of an original parcel under this subsection may be modified, provided that all of the following conditions are met:

1. All lots created from the original parcel shall collectively meet the R-IN density calculation.
2. The Certified Survey Map modifying the division depicts as parcels the new lot(s) and all of the original parcel, and clearly states the density calculation illustrating the total number of lots that may be created from the original parcel.

Certified Survey Maps shall be recorded in the Washington County Registry currently located in the office of the Register of Deeds of Washington County, Wisconsin and a notation shall be made on the zoning map maintained under Section 4.02, cross referenced to a statement on the face of the CSM: 'Density Limits, see

CSM.’

K. Impervious Surface Area

The maximum impervious surface area on a lot shall be 20%.

L. Landscaping

See Section 11.11.

M. Site Review and Architectural Control

See Section 10.00.

Draft for Public Hearing 11-10-09

4.03 – II R-1R RURAL RESIDENTIAL DISTRICT

A. Purpose and Characteristics. The R-1R Rural Residential District is primarily intended to provide for new or existing single-family residential uses in conservation developments or minor land divisions, existing single-family residential uses in conventional developments and existing agricultural uses. Base density for the District, as defined in Section 15.00, shall be 1 unit per 3.5 acres. Bonus density may be allowed as described in subsection F of this section 4.03-II. Conservation developments protect the existing character of an area, and allow for smaller residential lots clustered together. Conservation developments also provide common open space linked throughout the area. Such development is consistent with the Town's Comprehensive Plan goals, which include the preservation of the natural landscape and quality of life as priorities in the future development of the Town. New conventional developments may be allowable only as a conditional use in this district.

B. Permitted Principal Uses

1. Single-family dwellings with an attached garage in a conservation development.
2. Essential services as defined in Section 15.00.
3. Existing single-family dwellings with an attached garage in a conventional development at the time of adoption of this Ordinance.
4. Agricultural activities that include:
 - (a) The cultivation, harvesting, and sale of crops and related farm products.
 - (b) The raising and sale of livestock of fowl, with associated pasture and barnyards.
 - (c) Orchards, nurseries, greenhouses, and related horticultural uses.
 - (d) Growing and sale of Christmas trees.
 - (e) Agricultural structures such as barns, silos, storage sheds and stables.
5. Single-family dwellings with an attached garage in a minor land division created by Certified Survey Map as described in subsection J of this section 4.03-II.

C. Permitted Accessory Uses

1. Private garages and carports.
2. Gardening, tool and storage sheds incidental to the residential use.
3. Home occupations and professional home offices.
4. Roof-mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.

Accessory Structures are permitted in the rear and side yards only. Accessory Structures shall use like materials and colors to those of the principal structure.

D. Conditional Uses

See sections 5.05, 5.06 and 5.11.

E. Design Process and Standards for Conservation Developments

1. The following is the site design, review and approval process for conservation developments. The site developer should follow the process listed below as well as any additional requirements as deemed appropriate by the Zoning Administrator or Plan Commission:
 - (a) Create an **Environmental and Cultural Resources Diagram** for the site and surrounding area that identifies all existing environmental and cultural features and possible new common open space features (as defined in Section 15.00) to be created on the site. The analysis must include all county, state, and federally protected areas such as wetlands, lakes and streams. A minimum of 30% common open space is required for all conservation developments.

Existing natural environmental and cultural features to be identified and mapped, as applicable:

- Primary Environmental Corridors, Secondary Environmental Corridors, and Isolated Natural Resources Areas (as identified by the Southeastern Wisconsin Regional Planning Commission [SEWRPC])
- Environmental Conservancy areas as shown on the Land Use Plan map in the Town Comprehensive Plan
- Wetlands, including 75' buffer along wetland edges
- Lakes and streams, including a 75' buffer from the ordinary high water mark
- 100 year floodplains and floodways
- Drainage ways, including a 25-foot buffer
- Depth to groundwater
- Soil series, types and phases, as mapped by the U.S. Department of Agriculture
- Site topography
- Geologic formations including rock outcroppings, cliffs and glacial features such as eskers, kames, drumlins, and kettles
- Ridge lines and watershed boundaries
- Woodlands as defined by SEWRPC
- Prairie habitat areas of rare species and natural communities recorded in the Wisconsin Natural Heritage Inventory (NHI)
- Class I, II, III wildlife habitat areas identified by SEWRPC
- Slopes of 12% or greater
- Prime Agricultural Land as defined by SEWRPC
- Farmland contiguous to existing farmland in neighboring parcels
- Farmstead clusters, including agriculturally-related outbuildings

- Historic buildings or structures identified by the Wisconsin Architecture and History Inventory (WAHI) or other buildings of local cultural significance
- Inventoried historic or prehistoric archeological sites
- Existing roads, paving, buildings, utilities, easements, boundaries, planned land uses and zoning on and adjacent to the site
- Additional land conditions on and adjacent to the property according to general land cover type, including cultivated land, permanent grass land, meadow, pasture, prairie, hedgerows, etc.

Other possible areas to be created as common open space (See Section 15, “Common Open Space” definition for descriptions):

- Countryside Views
- Environmental Preserves
- Environmental Restoration
- Parkway Landscapes
- Traditional Farmsteads
- Cultivated Fields and Pastures
- Orchards
- Trail Corridors and Walkways
- Scenic Drives
- Equestrian Common Open Spaces and Features
- Forestation Areas
- Neighborhood Parks and Squares
- Play Areas
- Landscaped Boulevards
- Landscaped Cul-de-sac Islands
- Gateway Features
- Ornamental and Display Gardens
- Community Garden and Greenhouse
- Other Significant Common Open Space Features

(b) Review the **Environmental and Cultural Resources Diagram** and visit the site with Town representatives to evaluate important site features. The Town may require that a qualified ecologist, engineer, or land planner be included as part of the review. Establish an agreement between all parties as to what is valuable and should be preserved and/or created.

(c) Create a **Common Open Space Diagram** with items on the site to be preserved and/or created for Plan Commission review and acceptance.

(d) Present the **Common Open Space Diagram** to the Plan Commission for review and finalization of

which common open space features to preserve and/or create.

(e) Create 3 conceptual **Sketch Diagrams** using the accepted **Common Open Space Diagram** in consultation with Town staff and other plan reviewers. All 3 **Sketch Diagrams** should retain the agreed upon common open space features to the largest extent possible and be acceptable development scenarios that the developer would be willing to pursue if approved.

The following development design criteria should be used when creating the conservation development concepts:

- **Protect important existing environmental and cultural resources**

Protect all existing town, county, state, and federally regulated environmental and cultural resources and all others significant existing environmental and culturally resources identified on accepted **Common Open Space Diagram**.

- **Integrate common open space features into the design.**

Arrange the overall neighborhood design so as to create attractive and meaningful recreational, scenic and gathering areas for general public as well as the private development. Locate significant open spaces so they can be enjoyed by all residents without intruding upon the privacy of others. A minimum of 30% common open space is required for all conservation developments.

Organize open space features so they feel like common areas rather than mere extensions of the private lots. Place open spaces so that they can be accessed by the entire neighborhood. Place significant common spaces at the fronts or sides of properties and adjacent to neighborhood roadways and link these common areas with trails and pathways.

- **Locate houses to minimize disruption to the natural character.**

Locate houses such that (a) the houses are sited around open spaces that include natural environmental areas, fields, woodlands, pastures, or farmland (b) the houses are grouped together in ways that create large, clear naturally landscaped areas between groups of houses, and (c) the houses will be visually overshadowed by important natural features such as woodlands, hedgerows, hills, or other key features of the landscape.

Locate houses so as to minimize the length of time the house is visible to drivers on public roads — do this by placing houses behind landscape elements or natural features that reduce visibility of the house. Minimize the degree to which houses are prominently featured on ridges and hilltops, especially when they are visible to other houses and the public roads. (See Section 11.11 for specific landscape requirements for buffer areas)

- **Preserve and integrate landscape elements.**

Try to make the groups of houses seem like separate developments intertwined by a continuous system of landscape elements and natural features — use landscape elements (fields, hedgerows, woodlands) as separations between groups of houses. Landscape elements should include varied plant species and maintain the natural, rural character of the Town. Naturalized landscape areas (including berms) should not be mowed, except for the purpose of annual maintenance.

- **Group houses together.**

Groupings of 4 to 5 units are preferable, but larger groupings (perhaps as many as 8 units) could be satisfactory if there are larger open spaces and natural areas around and between them.

- **Connect the landscaping.**

Extend and connect the existing natural areas and environmental corridors with new plantings and landscaping that match the existing plantings and landscape. Create continuous landscape edges along public roads and between groups of houses using mixtures of species that create a varied image as the seasons change.

- **Link trail systems.**

Link natural features between parcels with a trail system which continues throughout the town. Create features of cul-de-sacs. Minimize the use of cul-de-sacs except where necessary to preserve a natural feature. Include planting in the cul-de-sac and create formal shapes to provide a front “green” for the surrounding homes.

- **Road design.**

Design roads (and adjacent landscapes) so as to minimize (a) the number of houses that are seen from roads and (b) the length of time houses are seen from the road. When houses are visible from roads, try to create compact groups with clear open or natural areas between the groups. Where feasible, design roads with straight alignments that are aimed at natural vistas with no buildings in them. Use curves to slow traffic naturally, rather than to accommodate increased speed.

- **Include scenic drives.**

Encourage the creation of scenic drives where houses are located only on one side of a road and natural landscapes are preserved on the other side. Preserve existing scenic drives in order to protect the natural character of the neighborhood.

- **Create walking and hiking trails.**

Create walking and hiking trails that are adjacent to public roads and act as buffers to residential uses. Integrate walking and hiking trails with the geometry and pattern of roads.

- (f) Provide the 3 conceptual **Sketch Diagrams** to the Plan Commission for review and possible conceptual approval.

The Plan Commission may evaluate these alternatives according to the following criteria:

- (1) The degree to which **Common Open Space Diagram** has been integrated into the overall site design.
- (2) The degree to which the conservation development design criteria have been integrated into the overall site design.
- (3) The degree to which the site design conforms to the dimensional and minimum open space requirements and allowable number of units as described in this section.
- (4) The degree to which the overall design and common open space concept can be implemented based on the Town of West Bend Land Division Ordinance and other relevant town, county,

state, and federal regulations.

(5) Whether the site design creates a visually appealing development that supports the overall goals of Town of West Bend as expressed in the Comprehensive Plan.

(g) The Plan Commission shall review the 3 conceptual **Sketch Diagrams** and take one of the following actions:

(1) Approve one of the 3 conceptual **Sketch Diagrams** as presented;

(2) Approve one of the 3 conceptual **Sketch Diagrams** with conditions. The applicant shall make appropriate revisions and present a revised diagram to the Plan Commission;

(3) Deny approval of all 3 conceptual **Sketch Diagrams**. The applicant may develop additional concepts for Plan Commission review.

(h) Prepare **Preliminary and Final Plats** for Town approval. Work with Town staff and reviewers to translate approved conservation development design into final plans.

F. Calculation of allowable number of units in conservation developments

To determine the allowable number of units, the following steps shall be taken:

1. Determine the total acreage of the site.
2. Determine the total acreage of common open space to be preserved or created as agreed upon during the design process. A minimum of 30% common open space is required for all conservation developments. One additional unit will be awarded for every 3.5 acres of designated common open space preserved or created beyond the 30% minimum common open space.
3. Add the total acreage of the site to the acreage of common open space beyond the 30% minimum required. Divide this number by 3.5 (acres) to determine the number of allowable units.

$$\text{Lots Possible} = \frac{\text{Total Acres} + (\text{Common Open Space Acres} - 30\% \text{ of Total Acres})}{3.5}$$

R-1R Conservation Development Calculations

Base Density = 1 unit/3.5 acres

1 acre minimum lot size

Total Acres		100										30% min. Common Open Space
Acres of Common Open Space		>50	50.0	47.5	45.0	42.5	40.0	37.5	35.0	32.5	30.0	
Maximum Lots Possible		*	34	33	32	32	31	30	30	29	28	

* Preserving beyond 50 acres would be permissible, but the number of lots are restricted by the amount of acreage available.

Example:

Total acreage of site = 100 acres

Total acreage of common open space to be preserved or created = 45 acres

Total allowable number of units = $100 + (45-30) / 3.5 = 32$ units

Note: The total number of buildable units that are feasible on any parcel will vary depending on several factors including but not limited to the following; the location and size of wetlands, streams or lakes, soil type, site topography, average lot size, total road area, and general creativity of the designer. When calculations yield numbers with decimals, the allowable number of lots shall be rounded down to the nearest whole number.

Draft for Public Hearing 11-10-09

G. R-1R Dimensional Standards for Conservation Developments

Lot	Width Minimum	120 feet *	
	Area Minimum	1 acre	
Principal Structure	Area Minimum	1,500 square feet	
	Height Maximum	35 feet	
Accessory Structure	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels 5 acres or more	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	40 feet (from street right-of-way)	
	Side	30 feet	
	Rear	40 feet	
	Shore	75 feet ****	
Minimum Setbacks of Lots	From external arterial street rights-of-way	100 feet	
	From scenic roads	100 feet	
	From all other external street rights-of-way	50 feet	

* Measured at the setback

** Whichever is less

*** See Section 7.00 for modifications

**** Measured from the Ordinary High Water Mark

***** Accessory Structures are not permitted in the Street or Shore Yard

H. R-1R Existing Conventional Developments and Minor Land Divisions Site Dimensional Standards

Lot	Width minimum	120 feet *	
	Area minimum	2.5 acres	
Principal Structure	Area minimum	1,500 square feet	
	Height Maximum	35 feet	
Accessory Structure	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels 5 acres or more	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	50 feet (from street right-of-way)	
	Side	30 feet	
	Rear	75 feet	
	Shore	75 feet ****	

* Measured at the setback

** Whichever is less

*** See Section 7.00 for modifications

**** Measured from the Ordinary High Water Mark

***** Accessory Structures are not permitted in the Street or Shore Yard

See Section 5.06 for Site Dimensional Standards for **New** Conventional Developments.I. Ownership of Common Facilities and Common Open Space

The following methods may be used, either individually or in combination, to own common facilities and *common* open space:

1. Homeowner's Association

Common facilities and open space shall be held in common ownership as undivided proportionate interests by

the members of the association. The homeowner's association shall be governed according to the following:

- (a) The applicant shall provide to the Town a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for the common areas.
- (b) Membership in the association shall be mandatory for all purchasers of lots.
- (c) The members of the association shall share equitably the costs of maintaining and operating the common facilities and common space.
- (d) The association shall have or hire adequate staff to maintain the common facilities and common space.
- (e) The association is responsible for the maintenance of the common facilities and open space. In the event the association does not maintain the common properties, the Town will maintain the common properties and assess the association members as necessary.
- (f) The association shall hold a conservation easement or deed restriction on the common open space land and common facilities to protect them from development.
- (g) The association shall provide for proper maintenance of shared septic systems, and common open space areas including, but not limited too, review of installation and ongoing repair, modification and maintenance.
- (h) The Town shall have the authority to special assess landowners for the preservation, restoration, or maintenance of shared septic systems and common open space features which are deemed by the Town Board to be noxious, hazardous, or a nuisance to the general public welfare.

2. Transfer of Ownership

- (a) Transfer of easements to a private or public conservation organization is acceptable if approved by the Town Board.
- (b) Ownership may be retained by the original landowner if the Town and residents of the development hold conservation easements on the land, protecting it from any further development.

3. Leasing of Conservation Land

- (a) Common open space land may be leased to another person or entity for the use, operation and maintenance if it is approved by the Town Board and provided that:
 - iv. The residents of the development shall have at all time have access to the leased lands, except in the case of lease of agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the land.
 - v. The land to be leased shall remain as mainly undeveloped open space whose character and uses are compatible with the overall goals and rural character of the Town and this ordinance.
 - vi. Lease agreements shall be recorded in the office of the county register of deeds within 30 days of execution and a copy shall be provided to the Town of West Bend.

4. Land Stewardship Plan

- (a) A land stewardship plan shall be prepared by a qualified landscape architect or ecologist describing the restoration, preservation and maintenance goals and methods for all common open space areas and features.
- (b) The land stewardship plan goals and methods should be implemented by a qualified landscape or ecological restoration organization
- (c) The land stewardship plan must, at minimum, be updated every 5 years to reflect changing conditions.
- (d) Copies of the original and updated land stewardship plans shall be provided to the Town.
- (e) In the event the association does not implement and/or update the land stewardship plan, the Town will implement and/or update the plan and assess the association and/or association members as necessary.

5. Rezoning

- (a) Common open space land may be rezoned to the P-1 Public and Private Park District provided it is desired by the landowners and approved by the Town Board.

J. Minor Land Divisions

Parcels containing at least 7 acres at the time of a minor land division may be so divided into one or more single lots of 2.5 acres minimum size, with a density not to exceed 1 unit per 3.5 acres, by a Certified Survey Map (CSM) complying with the Town's land division ordinance and Chapter 236 of the Wisconsin statutes.

As part of the land division approval process, the applicant shall identify and map all existing site and adjacent natural environmental and cultural features as listed in Section 4.03 – II, E 1(a). To the greatest extent possible, those significant environmental and cultural resources identified for preservation by the Plan Commission and Town Board or other relevant sections of this or other ordinances shall be protected during any subsequent land division, development, or construction activities.

That area of land that is located within the Environmental Conservancy District (see Section 15.00 for definition) shall be excluded from the density calculation. (Note: Approximate locations of these areas are shown for reference in the Town's Comprehensive Plan as "Environmental Conservancy Districts").

A prior minor land division of an original parcel under this subsection may be modified, provided that all of the following conditions are met:

1. All lots created from the original parcel shall collectively meet the R-IR density calculation.
2. The Certified Survey Map modifying the division depicts as parcels the new lot(s) and all of the original parcel, and clearly states the density calculation illustrating the total number of lots that may be created from the original parcel.

Certified Survey Maps shall be recorded in the Washington County Registry currently located in the office of

the Register of Deeds of Washington County, Wisconsin and a notation shall be made on the zoning map maintained under Section 4.02, cross referenced to a statement on the face of the CSM: 'Density Limits, see CSM.'

K. Impervious Surface Area

The maximum impervious surface area on a lot shall be 20%.

L. Landscaping

See Section 11.11.

M. Erosion Control

See Section 11.10.

N. Parking, Driveway, and Paved Areas

See Section 6.00.

O. Site Review and Architectural Control

See Section 10.00.

Draft for Public Hearing 11-10-09

4.03 – III R-1S SHORELAND RESIDENTIAL DISTRICT

A. Purpose and Characteristics

The R-1S Shoreland Residential District is primarily intended to provide for single-family residential uses within the three historic lake communities of the Town. These areas are composed of properties both on and off of the lakeshore, some of which have been in existence for many years prior to the adoption of this Ordinance. The intention of this District is to preserve the existing lakeside charm and appeal of these communities, protect the water quality of the lakes and allow property owners to maintain and improve their properties. To that end there are several requirements and recommendations for building and site work within the District. These standards are given in this Section 4.03 - III and in other sections of this Ordinance.

B. Lot Types

The District is comprised of existing lots in a variety of irregular sizes and configurations that were platted prior to the existence of zoning standards and that in many cases do not meet current dimensional standards.

For the purposes of this District, lots that were a lot of record with the Washington County Register of Deeds on April 1, 1986 are considered “Existing Lots”. Lots that were recorded after April 1, 1986 are considered “New Lots”. The standards for each of these categories of lots are given in this Section 4.03 – III and in other sections of this Ordinance.

In addition, Principal and Accessory Structures present on Existing Lots as of December 1, 2009 are considered to be conforming structures. Structures built or structurally altered after that date must conform to current District and other standards of this Ordinance or apply for a Conditional Use Permit.

C. Permitted Principal Uses

1. Single-family dwellings with an attached garage.
2. Farms and agricultural uses existing at the time of adoption of this Ordinance.
3. Essential Services as defined in Section 15.00.

D. Permitted Accessory Uses

1. Private detached garages and carports.
2. Gardening, tool and storage sheds incidental to the residential use.
3. Home occupations and professional home offices.
4. Roof mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.

No Accessory Structures shall be erected in a shore yard after December 1, 2009, but such structures on a lake lot may be permitted in a side yard provided that the required setbacks are met, or a street yard with a Conditional Use Permit.

E. Conditional Uses

See Sections 5.05, 5.06, and 5.11.

F. Limitations

In addition to the Town code, refer to federal, state, and county ordinances that regulate the size and structure of land in and around water bodies.

G. R-1S Site Dimensional Standards – Existing Lots

Lot	Width Minimum	Existing Dimension	
	Area Minimum	Existing Dimension	
Principal Structure	Area Minimum	Total: 1,200 square feet *	
	Height Maximum	1 st Floor: 600 square feet *	
Accessory Structure	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels 5 acres or more	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet *	
	Street	25 feet * (from street right-of-way or paving edge of private roads)	
	Side and Rear	7 feet *	
Minimum Setbacks for Principal Structure	Street	25 feet * (from street right-of-way or paving edge of private roads)	
	Side	7 feet *	
	Rear	25 feet *	
	Shore	75 feet *****	

* Exception to this standard may be possible with approved Conditional Use Permit

** Whichever is less

*** See Section 7.00 for modifications

**** Measured from the ordinary high water mark; a variance may be possible from Washington County

***** Accessory Structures are not permitted to be erected in the Shore Yard after December 1, 2009. Only permitted in the Street Yard with a Conditional Use Permit.

H. R-1S Site Dimensional Standards – New Lots

Lot	Width Minimum	150 feet *	
	Area Minimum	65,340 square feet	
Principal Structure	Area Minimum	Total: 1,200 square feet 1 st Floor: 950 square feet	
	Height Maximum	35 feet	
Accessory Structure	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels 5 acres or more	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet	
	Street	50 feet (from street right-of-way or paving edge of private roads)	
	Side and Rear	10 feet	
Minimum Setbacks for Principal Structure	Street	50 feet (from street right-of-way or paving edge of private roads)	
	Side	25 feet (combined, with a minimum of 10 feet on any one side)	
	Rear	25 feet	
	Shore	75 feet *****	

* Measured at the setback

** Whichever is less

*** See Section 7.00 for modifications

**** Measured from the ordinary high water mark; a variance may be possible from Washington County

***** Accessory Structures are not permitted to be erected in the Shore Yard after December 1, 2009. Only permitted in the Street Yard with a Conditional Use Permit.

I. Impervious Surface Area

The following percentages shall be the maximum impervious surface area for all lots, existing and new:

1. 35%: Lots with less than and including 12,000 square feet.
2. 30%: Lots with 12,001 square feet up to and including 15,000 square feet.
3. 25%: Lots with 15,001 square feet up to and including 20,000 square feet.
4. 20%: Lots with greater than and including 20,001 square feet.

J. Landscaping

See Section 11.11.

K. Erosion Control

See Section 11.10.

L. Parking, Driveway, and Paved Areas

See Section 6.00.

M. Site Plan Review and Architectural Control

See Section 10.00.

Draft for Public Hearing 11-10-09

4.03 – IV R-1S/MU SHORELAND RESIDENTIAL / MIXED-USE DISTRICT

A. Purpose and Characteristics

The Shoreland Residential / Mixed-Use District consists of shoreland uses that are contained within the historic lakeshore community, including rental cottages, lodging accommodation, hotel rooms, tavern and/or restaurant facilities, or owner occupied housing operated in a longstanding, uninterrupted manner as businesses licensed by the State of Wisconsin, Department of Health and Social Services pursuant to Chapter 254 of the Wisconsin Statutes and Chapter HSS 195 of the Wisconsin Administrative Code.

This District is comprised of properties both on and off of the lakeshore that have been in existence for many years prior to the adoption of this Ordinance. The intention of this District is to allow the continued operation of these long standing resorts, protect the character of surrounding residential neighborhoods, protect the aesthetic and environmental quality of the lakes, while still allowing property owners to adequately maintain and improve their current operations. To that end there are several requirements and recommendations for building and site work within the District. These standards are given in this Section 4.03 - IV and in other Sections of this Ordinance.

New properties shall not be rezoned into this District unless they are an expansion of an existing use or business in the R-1S/MU District as of the adoption date and it can be shown that in doing so, adjacent land owners and the community as a whole are not adversely impacted by the rezoning. In addition, there should be no major redevelopment of the existing properties that would substantially increase the intensity or use of the existing business enterprises.

Principal and Accessory Structures present as of December 1, 2009 are considered to be conforming structures. Structures built or structurally altered after that date must conform to current district standards or apply for a Conditional Use Permit.

B. Permitted Principal Uses

1. Shoreland uses (as described in Section A).
2. Single-family dwellings with an attached or detached garage.
3. Farms and agricultural uses existing at the time of adoption of this Ordinance.
4. Essential Services as defined in Section 15.00.

C. Permitted Accessory Uses

1. Private garages and carports.
2. Gardening, tool and storage sheds incidental to the principal use.
3. Home occupations and professional home offices.
4. Roof mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.

No Accessory Structures shall be erected in a shore yard after December 1, 2009, but such structures on a lake lot may be permitted in a side yard provided that the required setbacks are met, or a street yard with a Conditional Use Permit.

D. Conditional Uses

See Sections 5.05, 5.06, and 5.11.

E. Limitations

In addition to the Town code, refer to federal, state, and county ordinances that regulate the size and structure of land in and around water bodies.

F. R-1S/MU Site Dimensional Standards

Lot	Width Minimum	No minimum	
	Area Minimum	No minimum	
Principal Structure	Area Minimum	Total: 1,200 square feet * 1 st Floor: 600 square feet *	
	Height Maximum	35 feet *	
Accessory Structure	(Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels 5 acres or more	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet *	
	Street	25 feet * (from street right-of-way or paving edge of private roads)	
	Side and Rear	Existing Setback	
Minimum Setbacks for Principal Structure	Street	25 feet * (from street right-of-way or paving edge of private roads)	
	Side	10 feet *	
	Rear	25 feet *	
	Shore	75 feet ****	

* Exceptions to this standard may be possible by an approved Conditional Use Permit

** Whichever is less

*** See Section 7.00 for modifications

**** Measured from the Ordinary High Water Mark; a variance may be possible from Washington County

***** Accessory Structures are not permitted to be erected in the Shore Yard after December 1, 2009. Only permitted in the Street Yard with a Conditional Use Permit.

G. Impervious Surface Area

The following percentages shall be the maximum impervious surface area for all lots:

1. 35%: Lots with less than and including 12,000 square feet.
2. 30%: Lots with 12,001 square feet up to and including 15,000 square feet.
3. 25%: Lots with 15,001 square feet up to and including 20,000 square feet.
4. 20%: Lots with greater than and including 20,001 square feet.

H. Landscaping

See Section 11.11.

I. Erosion Control

See Section 11.10.

J. Parking, Driveway, and Paved Areas

See Section 6.00.

K. Site Plan Review and Architectural Control

See Section 10.00.

Draft for Public Hearing 11-10-09

4.04 – I B-1 COMMERCIAL/MIXED-USE DISTRICT**A. Purpose and Characteristics**

The B-1 Commercial/Mixed-Use District is intended to provide for the orderly and attractive business development in appropriate locations along arterial highways in the Town which can provide the necessary infrastructure and services. The B-1 Commercial/Mixed-Use District is also intended to provide for business and commercial service establishments which serve the general retail needs of the Town, as well as establishments which are locally related to and dependent upon highway traffic or designed to serve the needs of such traffic. Such business development should provide ample off-street parking and loading areas, safe vehicular access to the arterial highway system, landscaping and development character and intensity of use, which is compatible with the rural character of the Town.

B. Permitted Principal Uses

1. Antique and collectors stores.
2. Appliance stores.
3. Architectural services.
4. Art gallery.
5. Reserved for future use.
6. Bakeries and bagel stores.
7. Banks, credit unions, and savings and loan associations.
8. Barber shops and beauty shops.
9. Bath shops.
10. Book stores.
11. Bridal stores.
12. Building supply stores excluding lumber yards.
13. Business offices.
14. Camera and photographic supply stores.
15. Candy store.
16. Chiropractor services.
17. Clothing stores.
18. Computer store.
19. Delicatessen.
20. Dental clinics.
21. Drug stores.
22. Engineering services.
23. Florist.
24. Fruit Stores.
25. Fur store.

26. Gift stores.
27. Grocery stores.
28. Hardware stores.
29. Health store.
30. Hobby and craft shops.
31. Home and furnishings stores.
32. Insurance and real estate offices.
33. Investment services.
34. Jewelry stores.
35. Law offices.
36. Meat Markets.
37. Medical clinics.
38. Musical instrument stores.
39. Newspaper and magazine stores.
40. Office supplies and business machine stores.
41. Optical stores.
42. Osteopath services.
43. Paint, glass, and wallpaper stores.
44. Plumbing and heating supplies.
45. Self-service laundries and dry-cleaning establishments.
46. Shoe stores and leather goods stores.
47. Sporting goods stores.
48. Taxidermy.
49. Tobacco shops.
50. Travel arrangement services.
51. Urban planning services.
52. Variety stores.
53. Vegetable stores.
54. Weight loss services.
55. Or similar uses consistent and compatible with permitted uses as determined by the Plan Commission.

C. Permitted Accessory Uses

1. Accessory garages for storage of vehicles used in conjunction with the operation of the business or for occupants of the premises.
2. Off-street parking and loading areas

3. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker as a secondary use.
4. Roof-mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.

Accessory Structures are permitted in the rear and side yards only. Accessory Structures shall use like materials and colors to those of the Principal Structure.

D. Conditional Uses

See Sections 5.05, 5.07, 5.08, 5.09, 5.10, and 5.11.

E. B-1 Site Dimensional Standards

Lot	Width Minimum	150 feet *	
	Area Minimum	2 acres	
Principal Structure	Area Maximum (Footprint)	15,000 sq ft (for a one story structure) 10,000 sq ft (for a multi-story structure)	
	Height Maximum	35 feet	
Accessory Structure	Area Maximum (Combined total for all Accessory Structures)	Parcels 3.5 acres or less	2,000 square feet
		Parcels > 3.5 acres and < 5 acres	2,500 square feet
		Parcels 5 acres or more	3,000 square feet
	Height Maximum	15 feet **	
Minimum Setbacks for Accessory Structure ****	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	50 feet (from street right-of-way)	
	Side	25 feet	
	Rear	25 feet	
	Shore	75 feet ***	

* Measured at the setback

** See Section 7.00 for modifications

*** Measured from the Ordinary High Water Mark; a variance may be possible from Washington County

**** Accessory Structures are permitted in the side and rear yard only.

F. Impervious Surface Area

The maximum impervious surface area on a lot shall be 50%.

G. Plans and Specifications to be Submitted to Plan Commission

The builder of any building hereafter erected or structurally altered in the B-1 Commercial/Mixed-Use District shall, before a building permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety, or substantially diminish or impair, property values within the Town. The Plan Commission's review of the plans and specifications shall be concerned with such items as general site layout and building design, vehicular ingress and egress, off-street parking, loading and unloading and landscape planting plans.

H. Landscaping

See Section 11.11.

I. Erosion Control

See Section 11.10.

J. Parking, Driveway, and Paved Areas

See Section 6.00.

K. Site Plan Review and Architectural Control

See Section 10.00.

Draft for Public Hearing 11-10-09

4.04 – II B-2 COMMERCIAL/MIXED-USE DISTRICT**A. Purpose and Characteristics**

The B-2 Commercial/Mixed-Use District is intended to provide for the orderly and attractive business development in appropriate locations which are compatible with residential development and does not exhibit intense active of other business districts. The B-2Commercial/Mixed-Use District is also intended to provide for business and customer service establishments which serve the general retail needs of the Town. Such business development should provide ample off-street parking and loading areas, safe vehicular access to the arterial highway system, landscaping and development character and intensity of use, which is compatible with the rural character of the Town.

B. Permitted Principal Uses

1. Accounting, auditing and bookkeeping services.
2. Advertising agency services.
3. Antique stores.
4. Architectural services.
5. Art gallery.
6. Reserved for future use.
7. Bakeries and bagel stores.
8. Banks, credit unions, and savings and loan associations.
9. Barber shops and beauty shops.
10. Bath shops.
11. Book stores.
12. Bridal stores.
13. Business management consulting services.
14. Camera stores.
15. Candy store.
16. Card stores.
17. Chiropractor services.
18. Collection and adjustment services.
19. Commodity contracts, brokers and dealer services.
20. Computer store.
21. Consumer and mercantile credit reporting services.
22. Dental services
23. Delicatessen.
24. Dry cleaning and laundry pick-up stores.
25. Duplicating and mailing services.

26. Education material stores.
27. Employment services.
28. Engineering services.
29. Florist (not including green houses).
30. Formalwear stores.
31. Fur store.
32. Gift stores.
33. Hardware stores.
34. Health club store.
35. Hobby and craft shops.
36. Holding and investment services.
37. Insurance agents, brokers and services.
38. Interior design studios.
39. Jewelry stores.
40. Land surveying services.
41. Legal services.
42. Medical clinics.
43. Medical supply stores.
44. Musical instrument stores.
45. Office supply stores.
46. Optical stores.
47. Optometry services.
48. Osteopath services.
49. Personal credit services.
50. Public relations services.
51. Public service office (not including government offices).
52. Real estate agents, brokers and management services.
53. Security broker, dealers and flotation services.
54. Stenographer services.
55. Title abstracting services
56. Travel arrangement services.
57. Urban planning services.
58. Variety stores.
59. Or similar uses consistent and compatible with permitted uses as determined by the Plan Commission.

C. Permitted Accessory Uses

1. Accessory garages for storage of vehicles used in conjunction with the business or for occupants of the premises.
2. Off-street parking and loading areas
3. Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker as a secondary use.
4. Roof-mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.

Accessory Structures are permitted in the rear and side yards only. Accessory Structures shall use like materials and colors to those of the Principal Structure.

D. Conditional Uses

See Sections 5.05, 5.07, 5.08, 5.09, 5.10, and 5.11.

Draft for Public Hearing 11-10-09

E. B-2 Site Dimensional Standards

Lot	Width Minimum	100 feet *	
	Area Minimum	1 acre	
Principal Structure	Area Maximum (Footprint)	7,500 sq ft (for a one story structure) 5,000 sq ft (for a multi-story structure)	
	Height Maximum	35 feet	
Accessory Structure	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	1,250 square feet
		Parcels > 2 acres and < 3.5 acres	1,500 square feet
		Parcels > 3.5 acres and < 5 acres	1,750 square feet
		Parcels 5 acres or more	2,000 square feet
	Height Maximum	15 feet **	
Minimum Setbacks for Accessory Structure ****	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	50 feet (from street right-of-way)	
	Side	25 feet	
	Rear	25 feet	
	Shore	75 feet ***	

* Measured at the setback

** See Section 7.00 for modifications

*** Measured from the Ordinary High Water Mark; a variance may be possible from Washington County

**** Accessory Structures are permitted in the side and rear yard only.

F. Impervious Surface Area

The maximum impervious surface area on a lot shall be 50%.

G. Plans and Specifications to be Submitted to Plan Commission

The builder of any building hereafter erected or structurally altered in the B-2 Commercial/Mixed-Use District shall, before a building permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion,

or otherwise endanger the public health or safety, or substantially diminish or impair, property values within the Town. The Plan Commission's review of the plans and specifications shall be concerned with such items as general site layout and building design, vehicular ingress and egress, off-street parking, loading and unloading and landscape planting plans.

H. Landscaping

See Section 11.11.

I. Erosion Control

See Section 11.10.

J. Parking, Driveway, and Paved Areas

See Section 6.00.

K. Site Plan Review and Architectural Control

See Section 10.00.

Draft for Public Hearing 11-10-09

4.05 M-1 INDUSTRIAL DISTRICT

A. Purpose and Characteristics

The M-1 Industrial District is intended to provide for the orderly development of manufacturing or industrial operations, which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the Town as a whole by reason of smoke, noise, dust, odor, traffic, physical appearance, or other similar factors; and to establish such regulatory controls as will reasonably ensure compatibility with the surrounding area in this respect. Uses which are generally perceived as being of a nuisance nature or considered to be a hazard to human life should not be permitted as a matter of right, but permitted only as conditional uses after careful study and review. Listed conditional uses should not normally abut directly upon residential districts.

B. Permitted Principal Uses

The manufacture, fabrication, assembly, or processing of the following:

1. Automotive body repair.
2. Automotive upholstery.
3. Boats and marine equipment.
4. Cleaning, dressing and dyeing.
5. Commercial bakeries.
6. Commercial greenhouses.
7. Cosmetic manufacturing.
8. Distributors.
9. Electrical appliances manufacturing.
10. Electronic devices manufacturing.
11. Farm machinery manufacturing, sales, and repair.
12. Food locker plants.
13. Glass manufacturing.
14. Jewelry manufacturing.
15. Instrument manufacturing.
16. Laboratories.
17. Leather fabrication, not including tanning.
18. Machine shops.
19. Manufacture and bottling of nonalcoholic beverages.
20. Mini warehousing.
21. Packaging and packing of confections.
22. Packaging and assembly of products made from fur.
23. Painting.

24. Pharmaceutical processing.
25. Printing and publishing.
26. Storage and sale of machinery and equipment.
27. Tobacco and toiletries.
28. Warehousing.
29. Wholesaling.
30. Or similar uses consistent and compatible with permitted uses as determined by the Plan Commission .

C. Permitted Accessory Uses

1. Garages for storage of vehicles used in conjunction with the operation of an industry.
2. Off-street parking and loading areas.
3. Office, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
4. Roof -mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.

- D. Accessory Structures are permitted in the rear and side yards only. Accessory Structures shall use like materials and colors to those of the Principal Structure.

E. Conditional Uses

See Sections 5.05, 5.08, 5.09, and 5.11.

F. M-1 Site Dimensional Standards

Lot	Width Minimum	125 feet *	
	Area Minimum	1 acre	
Principal Structure	Area Maximum	50% of lot area	
	Height Maximum	45 feet	
Accessory Structures	(Combined total for all Accessory Structures)	Parcels 2 acres or less	2,500 square feet
		Parcels > 2 acres and < 3.5 acres	5,000 square feet
		Parcels > 3.5 acres and < 5 acres	7,500 square feet
		Parcels 5 acres or more	10,000 square feet
	Height Maximum	15 feet **	
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	50 feet (from the street right-of-way)	
	Side	25 feet	
	Rear	25 feet	
	Shore	75 feet *	

* Measured at the setback

** Measured from the ordinary high water mark; a variance may be possible from Washington County

G. Impervious Surface Area

The maximum impervious surface area on a lot shall be 75%.

H. Plans and Specifications to be Submitted to Plan Commission

To encourage in industrial use environment that is compatible with the residential character of the Town, zoning permits for permitted uses in Industrial Districts shall not be issued without review and approval of the Town Board. Said review and approval shall be concerned with general layout, building plans, ingress, egress, parking, loading and unloading, and landscape plans.

I. Landscaping

See Section 11.11.

J. Erosion Control

See Section 11.10.

K. Parking, Driveway, and Paved Areas

See Section 6.00.

L. Site Plan Review and Architectural Control

See Section 10.00.

Draft for Public Hearing 11-10-09

4.06 C-1 CONSERVANCY DISTRICT

A. Purpose and Characteristics

The C-1 Conservancy District is intended to preserve, protect, and enhance the ponds, streams, and wetland areas of the Town of West Bend. The preservation, protection, and enhancement of these areas will serve to maintain safe and healthful conditions; maintain and improve water quality, both ground and surface; prevent flood damage; control storm water runoff; protect stream banks from erosion; protect groundwater recharge and discharge areas; protect wildlife habitat; protect native plant communities; avoid the location of structures on soils which are generally not suitable for use; and protect the water-based recreation resources of the Town.

B. Permitted Uses

1. Agricultural uses provided that crop production does not involve filling or the creation of new artificial drainage systems, or the extension or expansion of existing artificial drainage systems.
2. Fishing
3. Hunting
4. Preservation of scenic, historic, and scientific areas.
5. Public fish hatcheries.
6. Sustained yield forestry.
7. Stream bank and lakeshore protection.
8. Water retention and wildlife preserves.

C. Structures

None permitted, except those accessory to a public fish hatchery. No on-site soil absorption sanitary sewerage system or private well used to obtain water for ultimate human consumption shall be constructed in the C-1 Conservancy District.

D. Tree Cutting and Shrubbery Clearing Prohibited

Lands lying within the C-1 Conservancy District shall not be clear cut of trees, shrubbery, or underbrush. No more than 10% of the natural vegetation shall be removed from a parcel in any one calendar year unless otherwise approved by the Town Plan Commission. Normal minor pruning, trimming, and shearing of vegetation; removal of dead, diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a professional forester shall be exempt from this restriction.

4.07 C-2 CONSERVANCY OVERLAY DISTRICT

A. Purpose and Characteristics

The C-2 Conservancy Overlay District is intended to preserve, protect and limit further development of those areas of the Town of West Bend that are designated “Environmental Conservancy (EC)” by the Cooperative Boundary Plan between the City of West Bend and the Town of West Bend (adopted 10/21/2001).

Existing Permitted, Accessory and Conditional Uses of the underlying Zoning Districts are allowed but no further division or more intensive development of land through Certified Survey Map (CSM), Subdivision or Condominium shall be permitted within the C-2 Conservancy Overlay District. Furthermore, no rezoning to a more intense underlying Zoning district is allowed within the C-2 Conservancy Overlay District. When classified as C-2 Conservancy Overlay District the parcel or lot no longer retains any rights for more intensive development as described elsewhere in this Ordinance. The only allowable exceptions to these site development restrictions are those particular development scenarios described for specific properties as detailed in the Cooperative Boundary Plan Section 4.9 (A) “Special Land Use Regulations Within BAA Areas”.

The preservation and protection of the open space and environmental features of these areas will serve to maintain the natural and rural character of the Town envisioned in the Boundary Plan and the Town’s Comprehensive Plan, while preserving the land owner’s right to continue their existing uses and maintain, expand, or rebuild their existing structures while also allowing them to build permitted new structures on their existing lot or parcel.

B. Permitted Uses

1. Any Principal, Accessory and Conditional Use of the land, that is permitted in the basic underlying Zoning District, provided that such use does not destroy the environmental and aesthetic features protected by this district.
2. Forest and game management
3. Park and recreation areas
4. Preservation of scenic, historic, and scientific areas
5. Recreational trails

C. Conditional Uses

Those particular uses described for specific properties as detailed in the Cooperative Boundary Plan Section 4.9 (A) “Special Land Use Regulations Within BAA Areas”. Any such development is to follow standards outlined in the underlying Zoning Districts and the Cooperative Boundary Plan Section 4.9 (A) “Special Land Use Regulations Within BAA Areas”.

D. Structures

Any permitted structures of the underlying Zoning District.

E. C-2 Site Dimensional Standards

All dimensional standards of underlying Zoning District apply.

F. Other Review and Performance Standards

All other review and performance standards of the underlying Zoning District and this Ordinance apply.

G. Tree Cutting and Shrubbery Clearing Prohibited

Lands lying within the C-2 Conservancy Overlay District shall not be clear cut of trees, shrubbery, or underbrush. No more than 10% of the natural vegetation shall be removed from a parcel in any one calendar year unless otherwise approved by the Town Plan Commission. Normal minor pruning, trimming, and shearing of vegetation; removal of dead, diseased, insect-infested vegetation; and silvicultural thinning conducted under the recommendation of a professional forester shall be exempt from this restriction.

Draft for Public Hearing 11-10-09

4.08 P-1 PUBLIC AND PRIVATE PARK DISTRICT

A. Purpose and Characteristics

The P-1 Public and Private Park District is intended to provide areas where the park, recreational, and open space needs, both public and private, of the Town of West Bend can be met without undue disturbance or degradation of the natural resources and uses of adjoining Districts. In addition, the district is intended to preserve and protect lands held by public interest groups, not-for-profit organizations, institutions or recreational organizations. Land uses within the District should promote planning and design which preserves and protects the environmental, cultural, historic and recreational resources and which recognizes that the natural environment is an integral system to the basic activity of the land use. The District allows for low-intensity improvements that support the purpose of the organizations or land use and also preserves or enhances the rural, recreational and environmental character of the Town of West Bend.

B. Permitted Uses

1. All of the Permitted Uses described in the C-1 Conservancy District.
2. Arboretums.
3. Challenge courses.
4. Nature preserves.
5. Outdoor ice skating.
6. Parks.
7. Passive trails (e.g. nature, walking, ski, equestrian, bike).
8. Picnic areas.
9. Playgrounds.
10. Sledding.
11. Sports fields.
12. Swimming beaches.
13. Swimming pools (indoor and outdoor).
14. Tobogganing.
15. Water measurement and water control facilities.

C. Permitted Accessory Uses

1. Barns.
2. Bathhouses and locker rooms.

3. Caretaker residences.
4. Clubhouses.
5. Equipment storage facilities.
6. Maintenance buildings.
7. On-site soil absorption sanitary sewerage systems, vault latrines, shower houses, grease traps.
8. Parking areas servicing the principal use.
9. Pavilions.
10. Restroom facilities
11. Roof mounted solar collectors provided that a registered professional engineer shall certify that the structure is adequate to support the load.
12. Shelters.
13. Stables.

D. Conditional Uses

See Sections 5.05 and 5.10.

E. Limitations

In addition to the Town code, refer to federal, state, and county ordinances that regulate the size and structure of land in and around water bodies.

F. P-1 Site Dimensional Standards

Lot	Width Minimum	No minimum
	Area Minimum	No minimum
Principal Structure	Area Minimum	No minimum
	Height Maximum	35 feet
Accessory Structure	Area Maximum (Combined total for all Accessory Structures)	No maximum
	Height Maximum	15 feet *
Minimum Setbacks for Accessory Structure	From Principal Structure	10 feet
	Street	25 feet (from street right-of-way)
	Side and Rear	10 feet
Minimum Setbacks for Principal Structure	Street	25 feet (from street right-of-way)
	Side	10 feet
	Rear	25 feet
	Shore	75 feet **

* See Section 7.0 for modifications

** Measured from the ordinary high water mark; a variance may be possible from Washington County

G. Impervious Surface Area

The maximum impervious surface area on a lot shall be 20%.

H. Landscaping

See Section 11.11.

I. Erosion Control

See Section 11.10.

J. Parking, Driveway, and Paved Areas

See Section 6.00.

K. Site Plan Review and Architectural Control

See Section 10.00.

Draft for Public Hearing 11-10-09

SECTION 5.00 CONDITIONAL USES

5.01 PURPOSE AND INTENT

Uses listed as permitted by conditional use permit may be authorized in the district in which permitted, upon application to the Plan Commission and subject to the Commission's authorization of a conditional use permit. When an existing use or structure is classified as a conditional use at the date of adoption of this Chapter, it shall be considered a legal use without further action of the Plan Commission. Changes to or substitution of conditional uses shall be subject to review and approval by the Plan Commission in accordance with this Section.

The Plan Commission shall consider the effect of granting a conditional use permit upon the health, safety, and general welfare of the Town and of the immediate area in which such use would be located, including such considerations as the effect on the established character and quality of the area; its physical attractiveness; the movement of traffic; the demand for related services; the possible hazardous, harmful, noxious, offensive or nuisance effects resulting from noise, dust, smoke or odor and other factors; and the Town Comprehensive Plan or components thereof.

5.02 PERMITS

A conditional use permit shall be required for the uses listed in Section 5.05 to 5.11 of this Ordinance. The Town Plan Commission shall review such application for a conditional use permit, hold a public hearing thereon in accordance with the requirements of Section 14.00 of this Ordinance, and report its findings and recommendations to the Town Board. The Town Board may thereafter authorize the Zoning Administrator to issue the conditional use permit, provided that such uses are in accordance with the purpose and intent of this Ordinance, and are found to be not hazardous, harmful, offensive, or otherwise adverse to the environment or the value of the neighborhood or the community.

5.03 APPLICATION

Applications for conditional use permits shall be made in duplicate to the Zoning Administrator on forms furnished by the Zoning Administrator and shall include the following:

- A. Names and Addresses of the applicant, owner of the site, architect, professional engineer, contractor, and all opposite and abutting property owners of record.
- B. Description of the Subject Site by lot, block, and recorded subdivision or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site is located. For floodland conditional uses, such description shall also include information that is necessary for the Plan Commission to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human or animal life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing elevations or contours of the ground; fill or storage elevations; first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets, water supply, and sanitary facilities; photographs showing existing land uses and vegetation upstream and downstream; soil types; and other pertinent information.
- C. Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 2.04 for a zoning permit and, in addition, the mean and historic high water lines and floodlands on or within 40 feet of the subject premises and existing structures, paving, and landscaping.

- D. Additional Information as may be required by the Town Plan Commission, Zoning Secretary, or Zoning Administrator/Building Inspector.

5.04 REVIEW AND APPROVAL

The Town Plan Commission and Town Board shall review the site plans, landscape plans, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems, and the proposed operation.

- A. Conditions such as landscaping, architectural design, type of construction, floodproofing, anchoring of structures, construction commencement and completion dates, sureties, lighting, fencing, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or parking requirements may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.
- B. Compliance with all other provisions of this Ordinance, such as lot width and area, yards, height, parking, loading, traffic, and highway access shall be required of all conditional uses, except as allowed for Existing Lots in the R-1S and R-1S / MU Districts and as set forth in Section 5.06. Variances shall only be granted as provided in Section 12.00 of this Ordinance.
- C. Amendments Changes subsequent to the initial issuance of a conditional use permit which would result in a need to change the initial conditions shall require an amendment to the conditional use permit. Enlargement of a conditional use shall not be considered an amendment. The process for amending a permit shall generally follow the procedures for granting a permit as set forth in Section 5.02.
- D. Revocation of Conditional Use Permit. Should a permit applicant, his heirs or assigns, fail to comply with the conditions of the permit issued by the Town Board or should the use, or characteristics of the use be changed without prior approval by the Town Board, the Conditional Use Permit may be revoked. The process for revoking a permit shall generally follow the procedures for granting a permit as set forth in Section 5.02.
- E. Limitations. Applications may be subject to Washington County review, particularly for the R-1S and the R-1S/MU districts.

5.05 PUBLIC AND SEMIPUBLIC USES

The following public and semipublic uses shall be conditional uses and may be permitted as specified:

- A. Governmental and Cultural Uses such as fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds, and museums, in any district.
- B. Utility Substations, wells, pumping stations, and towers in all districts provided all principal structures and uses are not less than 50 feet from any residential district lot line.
- C. Public, Parochial, and Private Elementary and secondary schools and churches in all Residential Districts provided the lot area is not less than 2 acres and all principal structures and uses are not less than 50 feet from any lot line.
- D. Cemeteries in any residential districts provided that no structure is located closer than 50 feet from any lot line.
- E. Communication Equipment Buildings in any district.

5.06 RESIDENTIAL USES

The following residential and quasi-residential uses shall be conditional uses and may be permitted as specified:

A. In any Residential District

1. Clubs, fraternities, lodges, and meeting places of a noncommercial nature provided all principal structures and uses are not less than 50 feet from any lot line.
2. Rest Homes, nursing homes, housing for the elderly at a density of not more than 10 units per acre, nurseries in any residential district provided all principal structures and uses are not less than 50 feet from any lot line.
3. Child care facilities provided all principal structures and uses are not less than 50 feet from any lot line.
4. Clinics provided all principal structures and uses are not less than 50 feet from any lot line.
5. Accessory Structures larger in total than 1500 square feet on parcels greater than 10 acres in size.
6. More than one Principal Structure on a lot if all Principal Structures conform to the following conditions:
 - a. The lot must have been a lot of record with the Washington County Register of Deeds on April 1, 1986.
 - b. The Principal Structures must have been present on the lot on April 1, 1986 (as can best be determined by available information and records).
 - c. All Principal Structures must be served by and hooked up to an approved septic system or municipal wastewater treatment plant.
 - d. The use, lot, and all Principal Structures must meet all applicable District standards and other applicable standards of this Ordinance and other town, county, state, and federal ordinances.
 - e. The presence of the multiple Principal Structures must not pose a threat to the public's health, safety or welfare.

The Plan Commission and/or Town Board, at its discretion, may require additional conditions as needed to protect and enhance the health, safety, and welfare of the Town's residents and protect and enhance its natural and cultural features.

B. In the R-1N Residential District

1. New single-family residential lots in a conventional development (preferably with 10 or fewer lots) provided the overall density does not exceed 1 unit per 2.5 acres (based on the total site area). The development shall conform to all applicable site, building, parking, and landscape standards within this ordinance as well as any additional requirements or conditions deemed appropriate by the Town.

The following is the site design, review and approval process for conventional developments. The site developer should follow the process listed below as well as any additional requirements or conditions deemed appropriate by the Town Zoning Administrator or Plan Commission:

- (a) Create an **Environmental and Cultural Resources Diagram** for the site and surrounding area that identifies valuable existing environmental and cultural features that could be preserved. The analysis must include all county, state, and federally protected areas such as wetlands, lakes and streams. In addition the analysis should emphasize any new environmental features or amenities that may be created on site.

Existing natural environmental and cultural features to be identified and mapped, as applicable:

- Primary Environmental Corridors, Secondary Environmental Corridors, and Isolated Natural Resource Areas (as identified by the Southeastern Wisconsin Regional Planning Commission [SEWRPC])
- Environmental conservancy areas as shown on the Land Use Plan map in the Town Comprehensive Plan
- Wetlands, including 75' buffer along wetland edges
- Lakes and streams, including a 75' buffer from the ordinary high water mark
- 100 year floodplains and floodways
- Drainage ways, including a 25-foot buffer
- Depth to groundwater
- Soil series, types and phases, as mapped by the U.S. Department of Agriculture
- Site topography
- Geologic formations including rock outcroppings, cliffs and glacial features such as eskers, kames, drumlins, and kettles
- Ridge lines and watershed boundaries
- Woodlands as defined by SEWRPC
- Prairie habitat areas of rare species and natural communities recorded in the Wisconsin Natural Heritage Inventory (NHI)
- Class I, II, II wildlife habitat areas identified by SEWRPC
- Slopes of 12% or greater
- Prime Agricultural Land as defined by SEWRPC
- Farmland contiguous to existing farmland in neighboring parcels
- Farmstead clusters, including agriculturally-related outbuildings
- Historic buildings or structures identified by the Wisconsin Architecture and History Inventory (WAHI) or other buildings of local cultural significance
- Inventoried historic or prehistoric archeological sites
- Existing roads, paving, buildings, utilities, easements, boundaries, planned land uses and zoning on and adjacent to the site
- Additional land conditions on and adjacent to the property according to general land cover type, including cultivated land, permanent grass land, meadow, pasture, prairie, hedgerows, etc.

Other possible environmental features or amenities not identified above that could be created or preserved (see Section 15 “Common Open Space” Definition for descriptions):

- Countryside Views
- Environmental Preserves
- Environmental Restoration
- Parkway Landscapes
- Trail Corridors and Walkways
- Scenic Drives
- Landscaped Boulevards
- Landscaped Cul-de-sac Islands
- Gateway Features

(b) Review the **Environmental and Cultural Resources Diagram** and visit the site with Town representatives to evaluate important site features. The Town may require that a qualified ecologist, engineer, or land planner be included as part of the review. Establish an agreement between all parties as to what is valuable and should be preserved or enhanced in the conventional development plan.

(c) Create a **Preservation and Amenity Diagram** with the agreed upon items on the site to be preserved and/or created for Plan Commission review and acceptance.

(d) Present the **Preservation and Amenity Diagram** to the Plan Commission for review and finalization of site features to preserve and/or create as part of conventional development plan.

(e) Create 3 conceptual **Sketch Diagrams** using the accepted **Preservation and Amenity Diagram** in consultation with Town staff and other plan reviewers. All 3 **Sketch Diagrams** should retain the agreed upon environmental features and amenities to the largest extent possible and be acceptable development scenarios that the developer would be willing to pursue if approved.

The following design criteria should be used when creating the conventional development concepts:

- **Protect and create important environmental and cultural resources and site amenities**

Protect all existing town, county, state, and federally regulated environmental and cultural resources and all other existing environmental and culturally resources and new features identified on accepted **Preservation and Amenity Diagram**. Conservation easements may be required to ensure preservation of the significant environmental and cultural features on the private lots.

- **Locate houses to minimize disruption to the natural character.**

Locate houses such that (a) the houses are sited to preserve the significant natural environmental areas, wetlands, woodland habitats, steep slopes, etc. and (b) the houses will be visually overshadowed by important natural features such as woodlands, hedgerows, hills, or other key features of the landscape.

Locate houses so as to minimize the length of time the house is visible to drivers on public roads — do this by placing houses behind landscape elements or natural features that reduce visibility of the

house. Minimize the degree to which houses are prominently featured on ridges and hilltops, especially when they are visible to other houses and the public roads.

- **Connect the landscaping.**

Extend and connect the existing natural areas and environmental corridors with new plantings and landscaping that match the existing plantings and landscape. Create continuous landscape edges along public roads and between houses using mixtures of species that create a varied image as the seasons change.

- **Link trail systems.**

Link natural features on private parcels with a trail system which continues throughout the town. Create features of cul-de-sacs. Minimize the use of cul-de-sacs except where necessary to preserve a natural feature. Include planting in the cul-de-sac and create formal shapes to provide a front “green” for the surrounding homes.

- **Road design.**

Design roads (and adjacent landscapes) so as to minimize (a) the number of houses that are seen from roads and (b) the length of time houses are seen from the road. Where feasible, design roads with straight alignments that are aimed at natural vistas with no buildings in them. Use curves to slow traffic naturally, rather than to accommodate increased speed.

- **Preserve scenic drives.**

Preserve existing scenic drives in order to protect the natural character of the neighborhood.

- **Create walking and hiking trails.**

Create walking and hiking trails that are adjacent to public roads and act as buffers to residential uses. Integrate walking and hiking trails with the geometry and pattern of roads. Provide easements on private lots to provide trail access.

- (f) Provide the 3 conceptual **Sketch Diagrams** to the Plan Commission for review and possible conceptual approval.

The Plan Commission may evaluate these alternatives according to the following criteria:

- (1) The degree to which the **Preservation and Amenity Diagram** has been integrated into the overall site design.
- (2) The degree to which the development design criteria have been integrated into the overall site design.
- (3) The degree to which the site design conforms to the dimensional and allowable number of units as described in this section.
- (4) The degree to which the overall design and environmental preservation can be implemented based on the Town of West Bend Land Division Ordinance and other relevant Town, County, State, and Federal regulations.

(5) Whether the site design creates a visually appealing development that supports the overall goals of Town of West Bend as expressed in the Comprehensive Plan.

(g) The Plan Commission shall review the 3 conceptual **Sketch Diagrams** and take one of the following actions:

(1) Approve one of the 3 conceptual **Sketch Diagrams** as presented;

(2) Approve one of the 3 conceptual **Sketch Diagrams** with conditions. The applicant shall make appropriate revisions and present a revised diagram to the Plan Commission;

(3) Deny approval of all 3 conceptual **Sketch Diagrams**. The applicant may develop additional concepts for Plan Commission review.

(h) Prepare Preliminary and Final Plats for Town approval. Work with Town staff and reviewers to translate approved development design into final plans.

2. Calculation of allowable number of units in R-1N conventional developments

To determine the allowable number of units, the following steps shall be taken:

(a) Determine the total acreage of the site.

(b) Determine the total acreage of Environmental Conservancy District (See Section 15.00 for definition) area to be excluded from the calculation.

(c) Subtract the Environmental Conservancy District area from the total acreage of the site. Divide this number by 2.5 (acres) to determine the number of allowable units.

$$\frac{\text{Lots Possible} = \text{Total Acres} - \text{Env. Cons. District Area Removed}}{2.5}$$

R-1N Conventional Development

Base Density = 1 unit/2.5

1.5 acre minimum lot

Total Acres

Total Acres	100																		
Environ. Conserv. District Area	95	90	85	80	75	70	65	60	55	50	45	40	35	30	25	20	15	10	5
Maximum Lots	2	4	6	8	10	12	14	16	18	20	22	24	26	28	30	32	34	36	38

Example:

Total acreage of site = 100 acres

Total acreage of Environmental Conservancy District area = 45 acres

$$\text{Total allowable number of units} = (100 - 45) / 2.5 = 22 \text{ units}$$

3. R-1N New Conventional Development Site Dimensional Standards

Lot	Width Minimum	120 feet *	
	Area Minimum	1.5 acres	
Principal Structure	Area Minimum	1,500 square feet	
	Height Maximum	35 feet	
Accessory Structures	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels > 5 acres	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	50 feet (from the street right-of-way)	
	Side	25 feet	
	Rear	50 feet	
	Shore	75 feet ****	

* Measured at the setback

** Whichever is less

*** See Section 7.001 for modifications

**** Measured from the Ordinary High Water Mark

***** Accessory Structures are not permitted in the Street or Shore Yard

C. In the R-1R Residential District

1. New single-family residential lots in a conventional development provided the overall density does not exceed 1 unit per 3.5 acres (based on the total site area). The development shall conform to all applicable site, building, parking, and landscape standards within this ordinance as well as any additional requirements or conditions deemed appropriate by the Town.

The following is the site design, review and approval process for conventional developments. The site developer should follow the process listed below as well as any additional requirements or conditions deemed appropriate by the Town Zoning Administrator or Plan Commission:

- (a) Create an **Environmental and Cultural Resources Diagram** for the site and surrounding area that identifies valuable existing environmental and cultural features that could be preserved. The analysis must include all county, state, and federally protected areas such as wetlands, lakes and streams. In addition the analysis should emphasize any new environmental features or amenities that may be created on site.

Existing natural environmental and cultural features to be identified and mapped, as applicable:

- Primary Environmental Corridors, Secondary Environmental Corridors, and Isolated Natural Resource Areas (as identified by the Southeastern Wisconsin Regional Planning Commission [SEWRPC])
- Environmental Conservancy areas as shown on the Land Use Plan map in the Town Comprehensive Plan
- Wetlands, including 75' buffer along wetland edges
- Lakes and streams, including a 75' buffer from the ordinary high water mark
- 100 year floodplains and floodways
- Drainage ways, including a 25-foot buffer
- Depth to groundwater
- Soil series, types and phases, as mapped by the U.S. Department of Agriculture
- Site topography
- Geologic formations including rock outcroppings, cliffs and glacial features such as eskers, kames, drumlins, and kettles
- Ridge lines and watershed boundaries
- Woodlands as defined by SEWRPC
- Prairie habitat areas of rare species and natural communities recorded in the Wisconsin Natural Heritage Inventory (NHI)
- Class I, II, III wildlife habitat areas identified by SEWRPC
- Slopes of 12% or greater
- Prime Agricultural Land as defined by SEWRPC

- Farmland contiguous to existing farmland in neighboring parcels
- Farmstead clusters, including agriculturally-related outbuildings
- Historic buildings or structures identified by the Wisconsin Architecture and History Inventory (WAHI) or other buildings of local cultural significance
- Inventoried historic or prehistoric archeological sites
- Existing roads, paving, buildings, utilities, easements, boundaries, planned land uses and zoning on and adjacent to the site
- Additional land conditions on and adjacent to the property according to general land cover type, including cultivated land, permanent grass land, meadow, pasture, prairie, hedgerows, etc.

Other possible environmental features or amenities not identified above that could be created or preserved (see Section 15 “Common Open Space” Definition for descriptions):

- Countryside Views
- Environmental Preserves
- Environmental Restoration
- Parkway Landscapes
- Trail Corridors and Walkways
- Scenic Drives
- Landscaped Boulevards
- Landscaped Cul-de-sac Islands
- Gateway Features

(b) Review the **Environmental and Cultural Resources Diagram** and visit the site with Town representatives to evaluate important site features. The Town may require that a qualified ecologist, engineer, or land planner be included as part of the review. Establish an agreement between all parties as to what is valuable and should be preserved or enhanced in the conventional development plan.

(c) Create a **Preservation and Amenity Diagram** with the agreed upon items on the site to be preserved and/or created for Plan Commission review and acceptance.

(d) Present the **Preservation and Amenity Diagram** to the Plan Commission for review and finalization of site features to preserve and/or create as part of conventional development plan.

(e) Create 3 conceptual **Sketch Diagrams** using the accepted **Preservation and Amenity Diagram** in consultation with Town staff and other plan reviewers. All 3 **Sketch Diagrams** should retain the agreed upon environmental features and amenities to the largest extent possible and be acceptable development scenarios that the developer would be willing to pursue if approved.

The following design criteria should be used when creating the conventional development concepts:

- **Protect and create important environmental and cultural resources and site amenities**
Protect all existing town, county, state, and federally regulated environmental and cultural resources and all other existing environmental and culturally resources and new features identified on accepted

Preservation and Amenity Diagram. Conservation easements may be required to ensure preservation of the significant environmental and cultural features on the private lots.

- **Locate houses to minimize disruption to the natural character.**

Locate houses such that (a) the houses are sited to preserve the significant natural environmental areas, wetlands, woodlands habitats, steep slopes, etc. and (b) the houses will be visually overshadowed by important natural features such as woodlands, hedgerows, hills, or other key features of the landscape.

Locate houses so as to minimize the length of time the house is visible to drivers on public roads — do this by placing houses behind landscape elements or natural features that reduce visibility of the house. Minimize the degree to which houses are prominently featured on ridges and hilltops, especially when they are visible to other houses and the public roads.

- **Connect the landscaping.**

Extend and connect the existing natural areas and environmental corridors with new plantings and landscaping that match the existing plantings and landscape. Create continuous landscape edges along public roads and between houses using mixtures of species that create a varied image as the seasons change.

- **Link trail systems.**

Link natural features on private parcels with a trail system which continues throughout the town. Create features of cul-de-sacs. Minimize the use of cul-de-sacs except where necessary to preserve a natural feature. Include planting in the cul-de-sac and create formal shapes to provide a front “green” for the surrounding homes.

- **Road design.**

Design roads (and adjacent landscapes) so as to minimize (a) the number of houses that are seen from roads and (b) the length of time houses are seen from the road. Where feasible, design roads with straight alignments that are aimed at natural vistas with no buildings in them. Use curves to slow traffic naturally, rather than to accommodate increased speed.

- **Preserve scenic drives.**

Preserve existing scenic drives in order to protect the natural character of the neighborhood.

- **Create walking and hiking trails.**

Create walking and hiking trails that are adjacent to public roads and act as buffers to residential uses. Integrate walking and hiking trails with the geometry and pattern of roads. Provide easements on private lots to provide trail access.

- (f) Provide the 3 conceptual **Sketch Diagrams** to the Plan Commission for review and possible conceptual approval.

The Plan Commission may evaluate these alternatives according to the following criteria:

- (1) The degree to which the **Preservation and Amenity Diagram** has been integrated into the overall site design.

- (2) The degree to which the development design criteria have been integrated into the overall site design.
 - (3) The degree to which the site design conforms to the dimensional and allowable number of units as described in this section.
 - (4) The degree to which the overall design and environmental preservation can be implemented based on the Town of West Bend Land Division Ordinance and other relevant Town, County, State, and Federal regulations.
 - (5) Whether the site design creates a visually appealing development that supports the overall goals of Town of West Bend as expressed in the Comprehensive Plan.
- (g) The Plan Commission shall review the 3 conceptual **Sketch Diagrams** and take one of the following actions:
- (1) Approve one of the 3 conceptual **Sketch Diagrams** as presented;
 - (2) Approve one of the 3 conceptual **Sketch Diagrams** with conditions. The applicant shall make appropriate revisions and present a revised diagram to the Plan Commission;
 - (3) Deny approval of all 3 conceptual **Sketch Diagrams**. The applicant may develop additional concepts for Plan Commission review.
- (h) Prepare **Preliminary and Final Plats** for Town approval. Work with Town staff and reviewers to translate approved development design into final plans.

2. Calculation of allowable number of units in R-1R conventional developments

To determine the allowable number of units, the following steps shall be taken:

- (a) Determine the total acreage of the site.
- (b) Determine the total acreage of Environmental Conservancy District (see Section 15.00 for definition) area, to be excluded from the calculation.
- (c) Subtract the Environmental Conservancy District area from the total acreage of the site. Divide this number by 3.5 (acres) to determine the number of allowable units.

$$\frac{\text{Lots Possible} = \text{Total Acres} - \text{Env. Cons. District Area Removed}}{3.5}$$

R-1R Conventional Development Calculations

Base Density = 1 unit/3.5 acres

2.5 acre minimum lot size

Total Acres

Total Acres	100																			
Env. Cons. District Area	95	90	85	80	75	70	65	60	55	50	45	40	35	30	25	20	15	10	5	0
Maximum Lots Possible	1	3	4	6	7	9	10	11	13	14	16	17	19	20	21	23	24	26	27	29

Example:

Total acreage of site = 100 acres

Total acreage of Environmental Conservancy District area = 45 acres

Total allowable number of units = $(100 - 45) / 3.5 = 16$ units

Draft for Public Hearing 11-10-09

3. R-1R New Conventional Development Site Dimensional Standards

Lot	Width minimum	120 feet *	
	Area minimum	2.5 acres	
Principal Structure	Area minimum	1,500 square feet	
	Height Maximum	35 feet	
Accessory Structure	Area Maximum (Combined total for all Accessory Structures)	Parcels 2 acres or less	864 square feet or 20% of rear yard/ side yard **
		Parcels > 2 acres and < 3.5 acres	1,000 square feet or 20% of rear yard/ side yard **
		Parcels > 3.5 acres and < 5 acres	1,200 square feet
		Parcels > 5 acres	1,500 square feet
	Height Maximum	15 feet ***	
Minimum Setbacks for Accessory Structure *****	From Principal Structure	10 feet	
	Side and Rear	25 feet	
Minimum Setbacks for Principal Structure	Street	50 feet (from street right-of-way	
	Side	30 feet	
	Rear	75 feet	
	Shore	75 feet ****	

* Measured at the setback

** Whichever is less

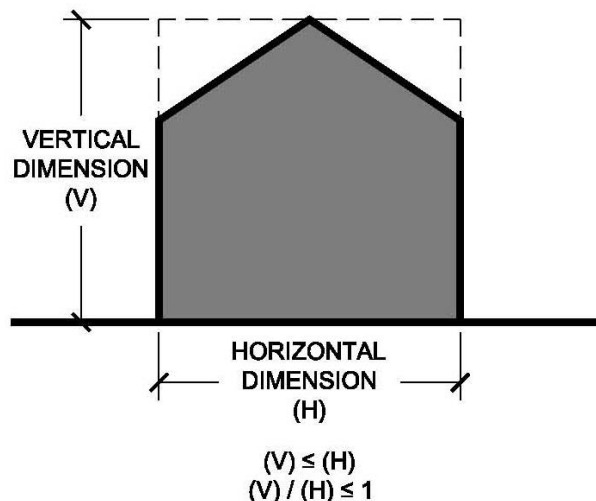
*** See Section 7.00 for modifications

**** Measured from the Ordinary High Water Mark

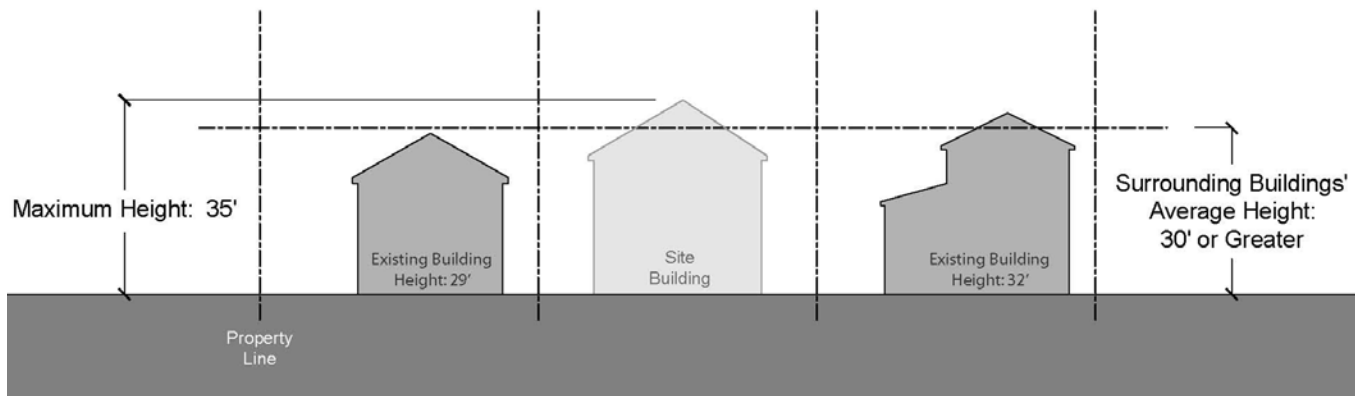
***** Accessory Structures are not permitted in the Street or Shore Yard

D. In the R-1S Shoreland Residential District

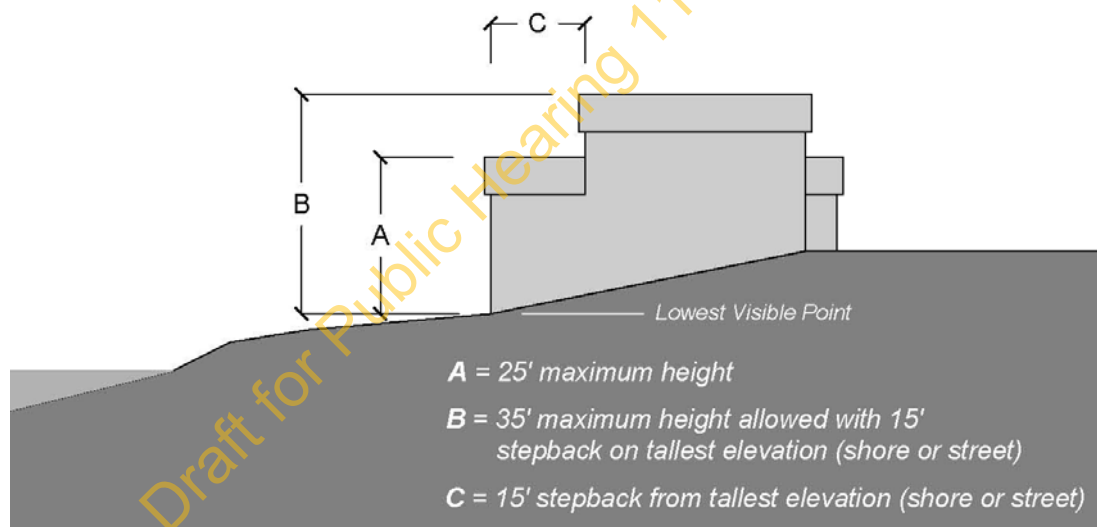
1. For new or existing Principal or Accessory Structures that do not meet permitted dimensional standards, located on Existing Lots, and which are undergoing structural alteration, improvement or modification that require a zoning permit or result in 500 square feet of site disturbance.
 - (a) New or existing Principal Structures that do not meet the minimum living area of 1,200 sq. ft. must not have an area less than the existing building square footage.
 - (b) New or existing Principal Structures that do not meet the minimum first floor area of 600 sq. ft. must not have an area less than the existing building footprint square footage.
 - (c) New or existing Principal Structures that exceed 25 feet in height shall be allowed up to 35 feet if street yard and shore yard elevations do not exceed 1:1 vertical to horizontal proportions (see R-1S CUP Building Proportions Diagram) and if one or more of the following conditions are met:
 - The existing Principal Structure is over 25 feet in height
 - The existing surrounding buildings on adjacent lots average 30 feet or greater (see R-1S CUP - Average Height Diagram)
 - The new or altered existing Principal Structure is designed with a 15-foot step-back from street yard or shore yard facades (whichever is taller) to minimize the perceived height of the building as seen from that yard (see R-1S CUP - Elevation Stepback Diagram). The lower projection on a street yard façade should not contain street facing garage doors and when appropriate, should include a full-size window and a pedestrian doorway that is accessible from the street.
 - (d) New or existing Principal or Accessory Structures that do not meet permitted street, rear, or side yard setbacks must not encroach beyond the existing street, rear, or side yard footprints. In no case shall the side setback be less than 3' (absolute minimum setback) (see R-1S CUP - Yard Setback Diagram).



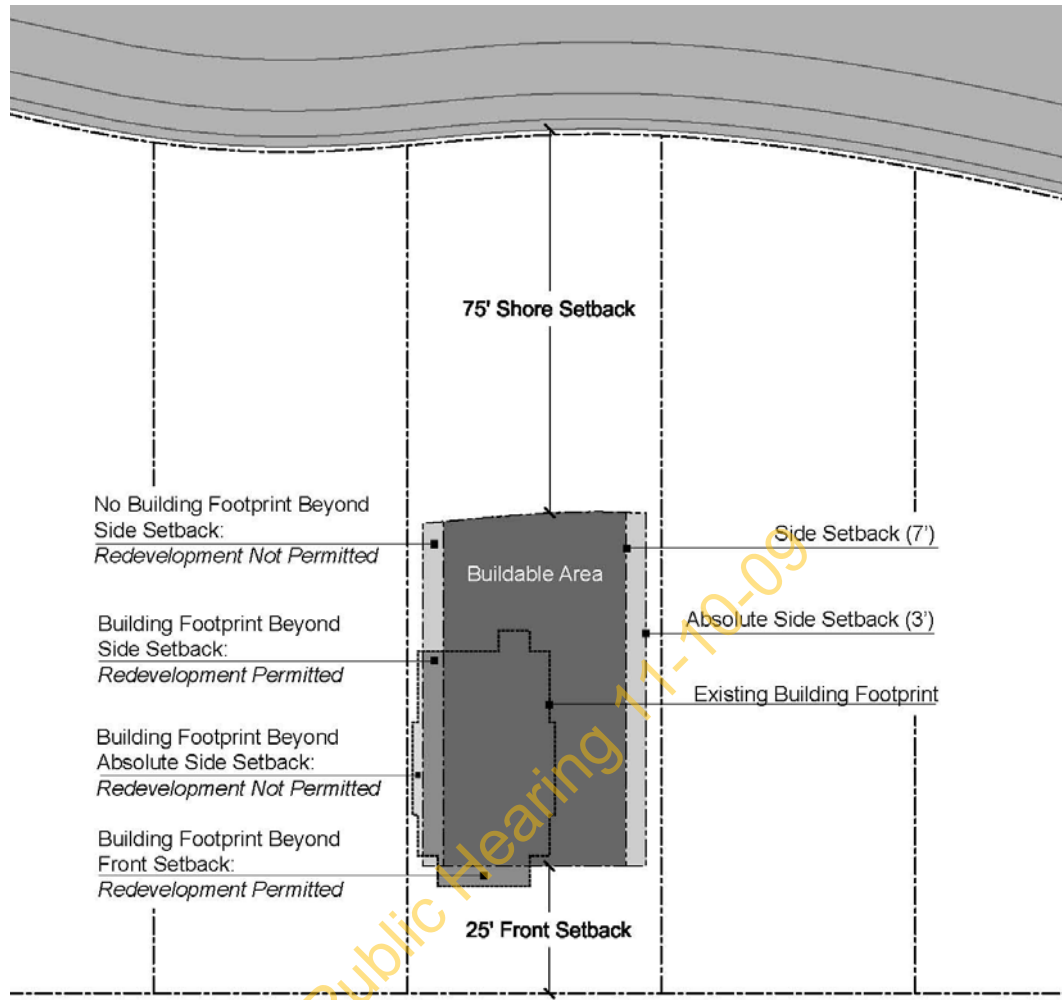
R-1S CUP - Building Proportions Diagram



R-1S CUP - Average Height Diagram



R-1S CUP - Elevation Stepback Diagram



R-1S CUP - Yard Setback Diagram

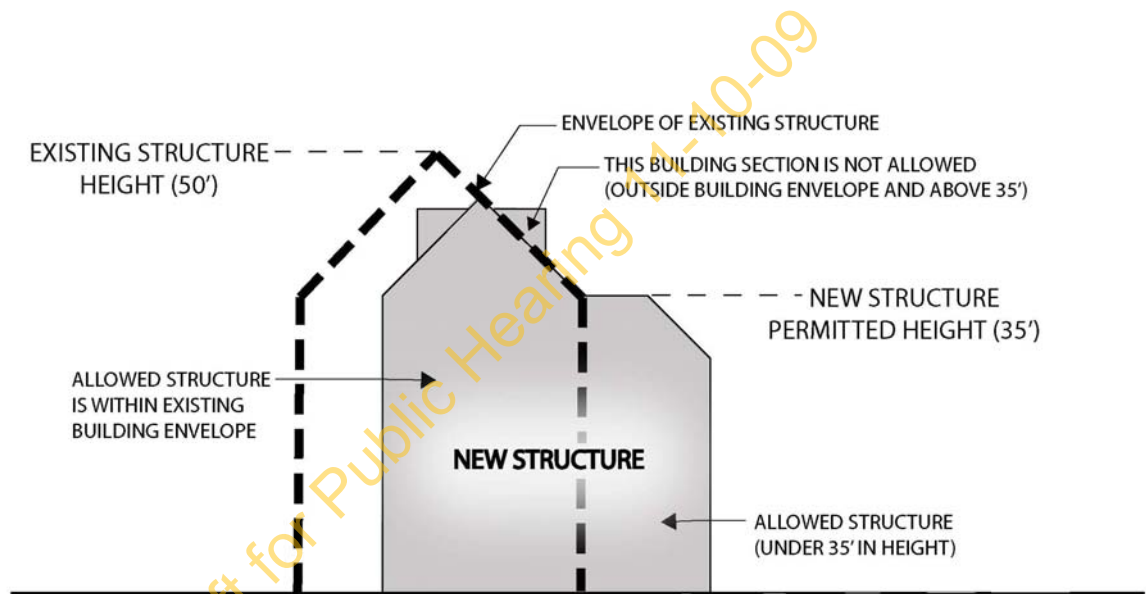
- For new or existing Principal or Accessory Structures on Existing Lots that do not meet the impervious surface area requirements.

Structures on lots that have greater than the permitted maximum percentage of impervious surface area shall have an approved landscape plan, and should demonstrate that all stormwater can be managed on-site. Lots should be designed to minimize stormwater surface runoff from the lot through the use of pervious paving, rain gardens, bioswales, cisterns, rain barrels or other approved stormwater management techniques.

Note: These conditions are intended to allow property owners of Existing Lots flexibility in continuing the use, maintenance, and improvement of their properties when existing site and building conditions make it difficult or impossible to meet the current district dimensional standards. However it should not be considered a complete waiver of the district standards for those Existing Lots or Structures. When it is feasible for portions of new or altered Structures or sites to meet district standards it may be required that they be brought into compliance with those standards. During the Conditional Use Permit process the Plan Commission and Town Board will evaluate each permit application and determine the appropriateness of these and other conditions and when to apply the current district standards.

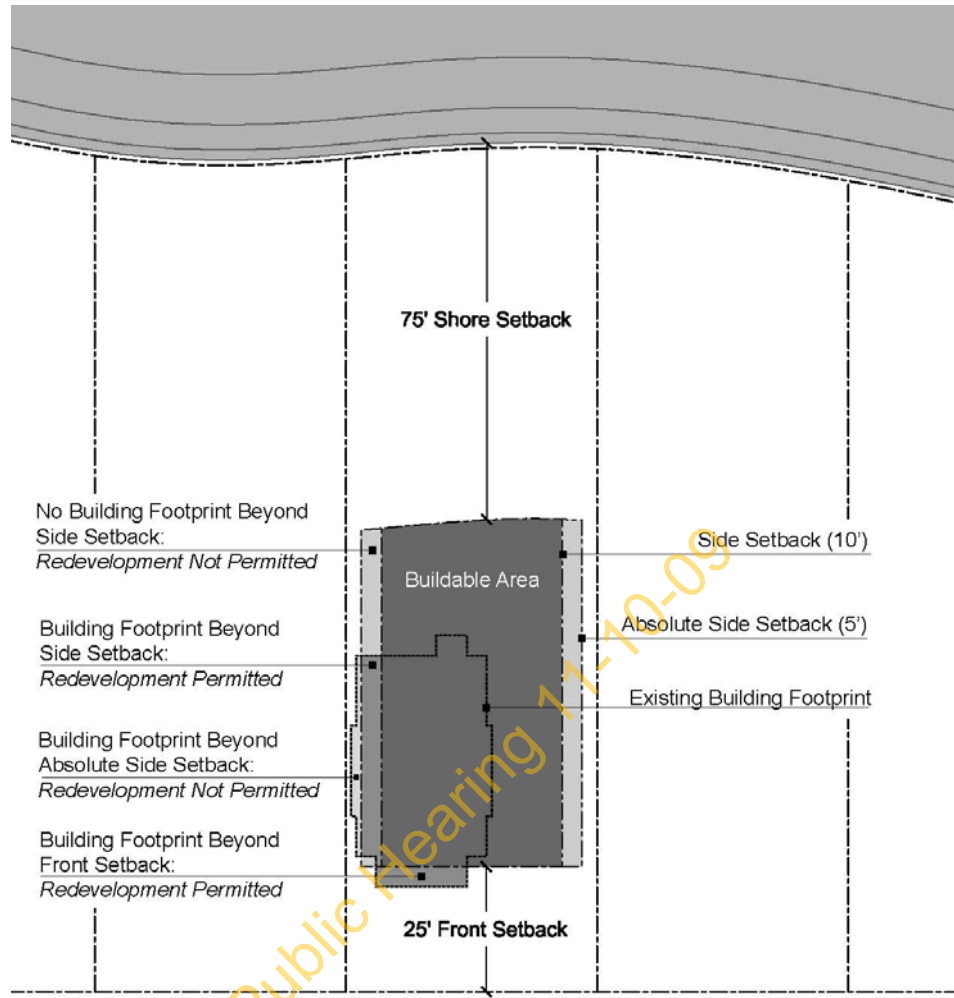
E. In the R-1S / MU Shoreland Residential / Mixed-Use District

1. For new or existing Principal or Accessory Structures that do not meet permitted dimensional standards, located on Existing Lots, and which are undergoing structural alteration, improvement or modification that requires a zoning permit or results in 500 square feet of site disturbance.
 - (a) New or existing Principal Structures that do not meet the minimum living area of 1,200 sq. ft. must not have an area less than the existing building square footage.
 - (b) New or existing Principal Structures that do not meet the minimum first floor area of 600 sq. ft. must not have an area less than the existing building footprint square footage.
 - (c) Existing Principal or Accessory Structures that exceed 35 feet in height may be permitted to be rebuilt to the existing height if the new roof structure is built within the building envelope of the existing roof structure (see R-1S / MU CUP – Building Height Diagram).



R-1S / MU CUP – Building Height Diagram

- (d) New or existing Principal or Accessory Structures that do not meet permitted street, rear, or side yard setbacks must not encroach beyond the existing street, rear, or side yard footprints. In no case shall the side setback be less than 5' (absolute minimum setback) (see R-1S / MU CUP - Yard Setback Diagram).



R-1S / MU CUP - Yard Setback Diagram

- For new or existing Principal or Accessory structures on Existing Lots that do not meet the impervious surface area requirements.

Structures on lots that have greater than the permitted maximum percentage of impervious surface area shall have an approved landscape plan, and should demonstrate that all stormwater can be managed on-site. Lots should be designed to minimize stormwater surface runoff from the lot through the use of pervious paving, rain gardens, bioswales, cisterns, rain barrels or other approved stormwater management techniques.

Note: These conditions are intended to allow property owners of R-1S / MU properties flexibility in continuing the use, maintenance, and improvement of their properties when existing site and building conditions make it difficult or impossible to meet the current district dimensional standards. However it should not be considered a complete waiver of the district standards for those properties or Structures. When it is feasible for portions of new or altered Structures and sites to meet district standards it may be required that they be brought into compliance with those standards. During the Conditional Use Permit process the Plan Commission and Town Board will evaluate each permit application and determine the appropriateness of these and other conditions and when to apply the current district standards.

5.07 BUSINESS USES

The following commercial uses shall be conditional uses and may be permitted as specified:

- A. Drive-Through. Any permitted use in a B-2 Commercial/Mixed-Use District with Drive-Through public access.
- B. Radio and Television transmitting towers, receiving towers, relay and microwave towers, and broadcast studios in the B-1 Commercial/Mixed-Use District and M-1 Industrial Districts.
- C. Equipment Rental in the B-1 Commercial/Mixed-Use District and the M-1 Industrial District.
- D. Animal Hospitals in the B-1 and B-2 Commercial/Mixed-Use Districts and the M-1 Industrial District provided that all principal structures and uses are not less than 100 feet from any residential district.
- E. Parking. Parking areas in excess of 4 spaces per 1,000 sq. ft. for retail and office, provided that negative visual impacts are reduced through the use of landscape features.
- F. In the B-1 and B-2 Commercial/Mixed-Use District:
 - 1. Child day care facilities
 - 2. Pet stores
- G. In B-1 Commercial/Mixed-Use District only
 - 1. Gasoline service stations provided that all service islands and pumps shall meet the setback requirements
 - 2. Marinas
 - 3. Motels and hotels
 - 4. Restaurants
 - 5. Taverns
 - 6. Theatres and Cinemas
 - 7. Permitted uses that exceed the site regulations by more than 10%.
- H. In the B-2 Commercial/ Mixed-Use District only
 - 1. Outdoor vending machine stores
 - 2. Pharmacies
 - 3. Stationary stores
 - 4. Studios for photography, painting, music, sculpture, dance or other recognized fine art.
 - 5. Telephone stores
 - 6. Variety stores
 - 7. Weight loss stores
 - 8. Gasoline Service stations provided that all service islands and pumps meet the setback requirements

5.08 INDUSTRIAL USES

The following industrial uses shall be conditional uses and may be permitted as specified:

- A. Dumps, Disposal Areas, Incinerators, recycling centers and sewage disposal plants in the M-1 Industrial District.
- B. Manufacturing and Processing of bedding, candles, and ice in the M-1 Industrial District.
- C. Processing of abrasives, acetylene, alkalies, bottling of alcoholic beverages, bottling and packaging of chemicals, building materials, cement products, cereals, charcoal packaging, food products, fuel, furs, grains, hair products, ice, lime products, meat (excluding slaughtering and confinement), oil cloth, and plaster of paris in the M-1 Industrial District.
- D. Storage of building materials, ice, and grains in the M-1 Industrial District. Outside storage areas shall be surrounded by a solid fence or evergreen planting screen completely preventing a view from any other property or public right-of-way and shall be at least 600 feet from residential, public, and semipublic districts.
- E. Bag Cleaning Facilities, cold storage warehouses; electroplating; enameling; lithographing; and weaving facilities in the M-1 Industrial District and shall be at least 600 feet from residential districts.
- F. Commercial Establishments Dealing in "Pornographic Materials and Activities."
 1. Commercial establishments which display, sell, have in their possession for sale, offer for view, publish, disseminate, give, lease, or otherwise deal in any written or printed matter, pictures, films, sound recordings, machines, mechanical devices, models, facsimiles, or other material and paraphernalia depicting sexual conduct or nudity 'and which exclude minors by reason of age.
 2. Commercial establishments which display for viewing any film or pictures depicting sexual conduct or nudity and which exclude minors by reason of age.
 3. Commercial establishments in which any person appears or performs in a manner depicting sexual conduct or involving nudity and from which minors are excluded by reason of age.
 4. Definitions:
 - (a) As used herein "nudity" means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the human male genitals in a discernible turgid state even if completely or opaquely covered.
 - (b) As used herein "sexual conduct" means acts or simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breasts.
 5. The above Conditional Uses shall only be permitted in a M-1 Industrial District and only upon the issuance of a Conditional Use Permit, subject to the following additional provisions:
 - (a) No permit shall be granted where the proposed establishment is within 500 feet of any hospital, church, school, funeral parlor, restaurant, library, park, museum, playground, or any other public or private building or premises likely to be utilized by persons under the age of 18 years.

- (b) No permit shall be granted where the proposed establishment is within 1,000 feet of any area zoned residential in the same or a contiguous town or municipality.
 - (c) The applicant shall furnish the Town detailed information as to the nature of use and activity of the proposed establishment. If the application is for an establishment under paragraph 1 or 2 of this Section, the applicant shall furnish representative samples of the materials to be dealt in. If the application is for an establishment under paragraph 3 of this Section, the applicant shall in detail specify the nature of the activity to be engaged in.
 - (d) The applicant for the permit shall provide the names and addresses of all parties in interest.
 - (e) Advertisements, displays, pictures, or other promotional materials shall not be shown or exhibited on the premises in a manner which makes them visible to the public from pedestrian ways or other public or semi-public areas.
 - (f) All points of access into such establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior from any public or semi-public area.
 - (g) In case of a protest signed by 20 percent or more of the persons of the area within 300 feet of the proposed establishment, the grant of such permit shall require a 2/3 vote of the Town Board.
 - (h) The Town Board in determining whether to grant a permit hereunder shall, in addition to considerations otherwise taken into account when acting on Conditional Use Permits, consider the protection of property values in the affected area; the preservation of neighborhoods; the tendency of such use to attract an undesirable quantity or quality of transients; the tendency of such use to cause increases in crime, especially prostitution and sex-related crimes and the need for policing; the tendency of such use to cause increases in noise, traffic, and other factors interfering with the quiet and peaceful enjoyment of the neighborhood; the tendency of such use to encourage residents and businesses to move elsewhere; the protection of minors from such materials and activities; any other factor created by the type of use being considered; and the health, safety, and general welfare of the community.
6. It is declared to be the purpose and intent of this subsection to protect the public health, safety, welfare, and morals of the community, to promote the stability of property values, and impose restrictions upon those activities which pander to gross sexuality in a manner that would detract from the neighborhood and adversely affect the property values, increase crime and violence and be repugnant to the morals of the community. In recognition of the protection afforded to the citizens under the 1st and 14th Amendments, it is not the intent to inhibit freedom of speech or the press, but rather to restrict the location of defined material and activities consistent with the Town's interest in the present and future character of its community development.

5.09 MINERAL EXTRACTION

The following earth moving and mineral extraction uses shall be conditional uses and may be permitted as specified:

- A. Top Soil Removal and sale is a conditional use and may be permitted in any district except the C-1 Conservancy District. The Town Board shall require the use of adequate soil erosion control measures to prevent pollution of surface waters caused by runoff.
- B. Mineral Extraction Operations including washing, crushing, or other processing are conditional uses and may be permitted in the M-1 Industrial District provided:
 - 1. Application: The application for the conditional use permit shall include: an adequate description of the operation; a list of equipment, machinery, and structures to be used; a topographic map of the site showing existing contours with minimum vertical contour interval of 5 feet, trees, proposed and existing and proposed excavations; and a restoration plan.
 - 2. Restoration Plan: The restoration plan provided by the applicant shall contain proposed contours after filling, depth of the restored topsoil, type of fill, planting or reforestation, and restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the Town's inspection and administrative costs and the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the Town Engineer, and the form and type of such sureties shall be approved by the Town Attorney.
 - 3. Term of Permit: The conditional use permit shall be in effect for a period not to exceed 2 years and may be renewed upon application for a period not to exceed 2 years. Modifications or additional conditions may be imposed upon application for renewal.
 - 4. Impact: The Town Board shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character and land value of the locality and shall also consider the practicality of the proposed restoration of the site.

5.10 RECREATIONAL USES

The following public recreational facilities shall be conditional uses and may be permitted as specified:

- A. Archery Ranges, bathhouses, beaches, camps, conservatories, driving ranges, golf courses, gymnasiums, ice boating, polo fields, pools, riding academies, stadiums, and zoological and botanical gardens in any district provided that the lot area is not less than 3 acres and all structures are not less than 40 feet from any lot line.
- B. Commercial Recreation Facilities, such as arcades, athletic clubs, driving ranges, gymnasiums, clubs and lodges, miniature golf facilities, pool and billiard halls and skating rinks are conditional uses and may be permitted in any Commercial/Mixed-Use District. Physical cultural facilities, racetracks, rifle ranges, and Turkish baths are specifically prohibited uses.

C. In the P-1 Public and Private Park District:

1. Concession stands.
2. Conference, banquet or meeting facilities.
3. Equestrian facilities.
4. Fairgrounds.
5. Food service facilities.
6. Golf courses and golf driving ranges.
7. Government facilities.
8. Hunting and fishing facilities.
9. Motorized trails (e.g. snowmobile and ATV).
10. Museums.
11. Non-motorized boat rental and non-motorized boat access sites.
12. Outdoor summer theaters and band shells.
13. Private and public recreational and educational daytime and overnight camps.
14. Schools.
15. Ski hills.
16. Year-round and seasonal lodging facilities (i.e. dorms, cabins, lodges, improved camp sites, dining facilities, health center, on-site staff housing etc.)
17. Year-round and seasonal program facilities (i.e. arts & crafts center, nature center, administrative center, etc.).

5.11 ENERGY CONSERVATION USES

The following energy conservation uses are conditional uses and may be permitted as specified:

- A. Wind Energy Conversion Systems, commonly referred to as "windmills" which are used to produce electrical power may be permitted in any district provided that the following information requirements and standards shall apply:
1. Application: Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one premise, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system, and provide assurances as to the safety features of the system. Solar easements shall accompany the application.
 2. Construction: Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than 40 pounds per square foot in area.
 3. Noise: The maximum level of noise permitted to be generated by a wind energy conversion system shall be 50 decibels, as measured on a dB(A) scale, measured at the lot line.
 4. Electro-Magnetic Interference: Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broadcasting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
 5. Location and Height: Wind energy conversion systems shall not be located on lots less than 3 acres in area. Wind energy conversion systems shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this ordinance, however, all such systems over 75 feet in height shall submit plans to the Federal Aviation Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.
 6. Fence Required: All wind energy conversion systems shall be surrounded by a security fence not less than 6 feet in height. A sign shall be posted on the fence warning of high voltages.
 7. Utility Company Notification: The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.
 8. Compliance with Electrical Code: The electrical portion of the installation shall comply with all applicable provisions of town, state and federal electrical codes.
- B. Solar Energy Conversion Systems, including all systems as defined by Section 101.57 (8) (b) of the Wisconsin Statutes, when such systems are erected as an accessory structure may be permitted in any district.

1. Application: Applications for the erection of a solar energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the conversion system and the means by which the energy will be provided to the structure or structures.
 2. Construction: Solar energy conversion systems shall be constructed and installed in conformance with all applicable state and local building and zoning codes.
 3. Location and Height: Solar energy conversion systems shall meet all setback and yard requirements for the district in which they are located. Solar energy conversion systems shall conform to all height requirements of the zoning code unless otherwise provided in the conditional use permit issued pursuant to this section.
- C. Earth Sheltered Structures which are built partially or totally into the ground for the purpose of using the insulating value of the soil to conserve energy may be permitted in any residential district. This section does not include conventional homes with exposed basements, split-levels or similar types of construction. In addition, the following information requirements and standards shall apply:
1. Application: Applications for the construction of an earth sheltered structure shall be accompanied by all of the information required to obtain a building permit with special attention to be given to the bearing strength of the structure, provision of proper drainage for sanitary, storm and ground water and wastes, proper ventilation, grading of the lot and its effect on adjacent properties, proper exit availability and exterior renderings of the structures to determine its visual effect on adjacent structures. Such standards shall be certified by a registered engineer or architect.
 2. Construction: Earth sheltered structures shall be constructed in conformance with all applicable state and local building and zoning codes. A registered engineer or architect shall certify that the design of the structure is in conformance with all applicable state and local codes.
1. Installation and use of an accessory energy system commonly referred to as an outdoor boiler, furnace or stove as a heat source for a residence or any accessory use thereof.

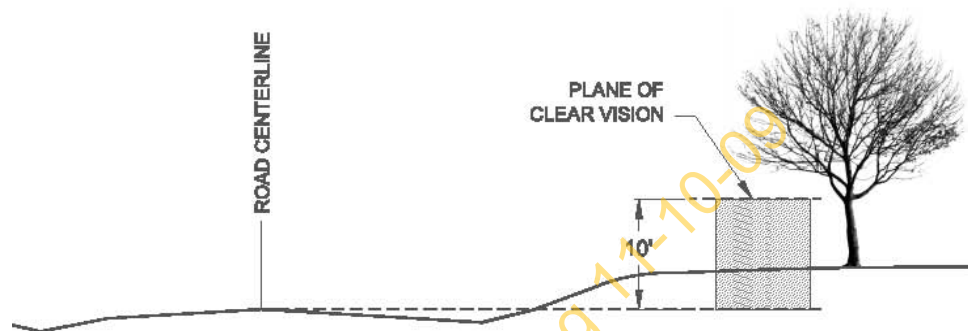
Application for the accessory energy system shall be accompanied by a plat of survey for the property to be served showing the location of the unit, the means by which heat will be provided to the structure or structures, and its aesthetic and smoke effect on neighboring residents.

SECTION 6.00 TRAFFIC, LOADING, PARKING AND ACCESS

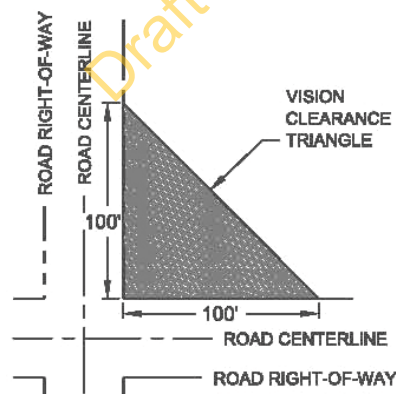
6.01 TRAFFIC VISIBILITY

No obstructions, such as structures, parking, or vegetation, shall be permitted in any district between the heights of 0 feet and 10 feet above the plane through the mean center line grades within the triangle space formed by any 2 existing or proposed intersecting streets at the right-of-way lines and a line joining on such lines located a minimum of 15 feet from their intersection in any interior platted subdivisions.

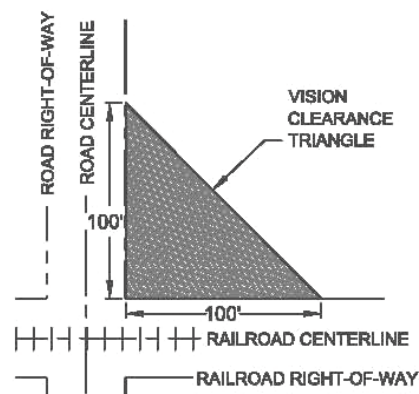
In case of all other Town Roads or Railroad Intersections, the corner cutoff distance establishing the triangular vision clearance space on such road or railway shall be increased to 100 feet.



VISION CLEARANCE TRIANGLE
(Side View)



Intersection of Two Roads



Intersection of Road & Railroad

VISION CLEARANCE TRIANGLE
(Plan View)

6.02 LOADING REQUIREMENTS

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

6.03 PARKING REQUIREMENTS

In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased, off-street parking stalls for all vehicles in accordance with the following:

- A. Adequate Access to a public street shall be provided for each parking space.
- B. The Minimum Dimensions of each parking space shall be 9 feet by 18 feet, except for properly signed spaces provided for use by physically disabled persons.
- C. Parking Spaces For Use By Physically Disabled Persons. All open off-street parking areas providing for more than 25 parking spaces, except for parking areas restricted to use by employees only, shall provide properly signed parking spaces for use by motor vehicles which transport physically disabled persons in accordance with the following minimum standards:
 - 1. One properly signed physically disabled parking space shall be provided in parking areas containing 26 to 49 spaces.
 - 2. Two percent of the total number of spaces shall be properly signed physically disabled parking spaces in areas containing 50 to 1,000 spaces.
 - 3. In addition to the number of spaces required in subsection (2) above, one percent of each 1,000 spaces over the first 1,000 spaces shall be provided for properly signed physically disabled parking areas containing more than 1,000 spaces.
 - 4. The minimum dimensions for all parking spaces provided for use by physically disabled persons shall be 12 feet by 18 feet.
 - 5. Parking spaces provided for the use of physically disabled persons shall be located as close as possible to an entrance which allows such persons to enter and leave the parking area without assistance.
 - 6. All parking spaces provided for use by physically disabled persons shall be marked by a sign which includes the international symbol for barrier-free environments and a statement informing the public that the parking space is reserved for use by physically disabled persons. Such sign shall comply with the requirements of Sections 346.503, and 346.505 of the Wisconsin Statutes.
- D. Location shall be on the same lot as the principal use or not more than 400 feet from the principal use. No parking space or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line or a street right-of-way opposite a residential district.
- E. Surfacing. Permeable materials and porous pavement shall be used in the R-1S and R-1S/MU districts for new parking, driveway, walkway, patio or other paved areas. Examples of such materials include but are not limited to

the following: permeable brick or concrete pavers, permeable asphalt, permeable concrete, and concrete grid pavers. Exceptions may be permitted with the approval of the Town Plan Commission. All off-street parking areas in other districts shall be provided with a dust free surface, and shall be graded and drained in such a way as to prevent undo erosion and protect water quality. Any parking area for more than 5 vehicles shall have the aisles and spaces clearly marked.

- F. Landscaping. All public off-street parking areas which serve 5 vehicles or more and are created or redesigned and rebuilt subsequent to the adoption of this Ordinance shall be provided with accessory landscape areas totaling not less than 5 percent of the surfaced area. The minimum size of each landscape area shall not be less than 100 square feet. Location of landscape areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Plan Commission. All plans for proposed parking areas shall include a topographic survey or grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of the required minimum landscaped area. Parking areas for 5 or more vehicles which adjoin residential districts shall be visually screened with a solid wall, fence, or evergreen planting of equivalent visual density, or other effective means, built and maintained to a minimum height of 6 feet. (For additional standards refer to Section 11.11)
- G. Curbs or Barriers shall be installed at least 4 feet from a property line so as to prevent parked vehicles from extending over any lot lines.
- H. Number Of Parking Spaces Required. In the case of structures or uses not specified herein, the number of spaces specified as the general standard for the use class or the number of spaces specified for similar use shall apply. In developments involving the establishment or addition of 2 or more uses on 1 lot or parcel, shared parking arrangements are required, provided it can be shown that the number of spaces can meet the parking needs of the multiple establishments. Shared parking agreements and cross-access easements may be required as part of approval.
1. Residential Uses:
 - (a) Single-family and two-family dwellings: minimum 1 covered space and 1 uncovered space per dwelling unit. Multi-family dwellings: minimum 2 covered or uncovered spaces per dwelling unit. Existing lots in the R-1S District: no minimum required. Exceptions may be permitted with the approval of the Town Plan Commission.
 - (b) Housing for the elderly: 1 space per dwelling unit.
 - (c) Shoreland resorts in the R-1S / MU District: no minimum number of parking spaces required except those required for access by the physically disabled. When possible, parking areas should be located on-site and should be screened with landscape as viewed from surrounding lakes, roads and residential areas. In general, the existing number of on-site parking spaces should be maintained to avoid the need for any additional on-street parking.
 2. Retail sales, customer service uses, and places of entertainment:

Parking is to be placed on the side or near the rear of the building. Parking shall be at a ratio of not more than 4 spaces per 1,000 square feet of gross building floor area, except by Conditional Use.
 3. Offices:

Parking is to be placed on the side on the side or near the rear of the building. Parking shall be at a ratio of not more than 4 spaces per 1,000 square feet of gross building floor area, except by Conditional Use.

4. Commercial/Recreational uses:

- (a) General standard -- 1 space per 4 patrons based on the maximum capacity of the facility, plus 1 space per employee for the work shift with the largest number of employees.
- (b) Bowling alleys -- 5 spaces for each lane, plus 1 space per employee for the work shift with the largest number of employees.
- (c) Golf courses -- 90 spaces per 9 holes, plus 1 space per employee for the work shift with the largest number of employees.
- (d) Golf driving ranges -- 1 space per tee, plus 1 space per employee for the work shift with the largest number of employees.
- (e) Miniature golf course -- 1.5 spaces per hole, plus 1 space per employee for the work shift with the largest number of employees.
- (f) Indoor tennis, racquetball and handball courts -- 3 spaces per court, plus 1 space per employee for the work shift with the largest number of employees.
- (g) Skating rinks, ice or roller -- 1 space per 200 square feet of gross floor area.

5. Industrial and related uses:

- (a) Manufacturing, processing, and fabrication operations -- 1 space per employee for the work shift with the largest number of employees.
- (b) Wholesale business -- 1 space per employee for the work shift with the largest number of employees, plus 1 space per 2,500 square feet of gross floor area.
- (c) Warehousing -- 1 space per employee for the work shift with the largest number of employees, plus 1 space per 5,000 square feet of gross floor area.
- (d) Mini-warehousing -- 1 space per 10 storage cubicles, plus 1 space per employee for the work shift with the largest number of employees.
- (e) Extractive and related operations -- 1 space per employee for the work shift with the largest number of employees.

6. Institutional and related uses:

- (a) Churches -- 1 space per 3 seats based on the maximum capacity of the facility.
- (b) Libraries -- 1 space per 250 square feet of gross floor area or 1 space per 4 seats based on maximum capacity, whichever is greater, plus 1 space per employee for the work shift with the greatest number of employees.
- (c) Museums -- 1 space per 250 square feet of gross floor area, plus 1 space per employee for the work shift with the greatest number of employees.

- (d) Rooming and boarding houses, fraternity and sorority houses, dormitories and rectories -- 1 space per bed.
- (e) Convents and monasteries -- 1 space per 3 residents, plus 1 space per employee for the work shift with the largest number of employees, plus 1 space per 5 chapel seats if the public may attend.
- (f) Nursing homes -- 1 space per 3 patient beds, plus 1 space per employee for the work shift with the largest number of employees.
- (g) Hospitals -- 2 spaces per 3 patient beds, plus 1 space per staff doctor, plus 1 space per employee, excluding doctors, for the work shift with the largest number of employees.
- (h) Schools:
 - (1) Elementary schools, middle schools, and high schools -- 1 space for each teacher and staff member, plus 1 space for each 10 students 16 years of age or older.
 - (2) Colleges, universities and trade schools -- 1 space for each teacher and staff member, plus 1 space for each 2 students during the highest attendance period.
 - (3) Children's nursery schools and day-care centers -- 1 space per employee for the work shift with the greatest number of employees, plus 1 space per 6 students at the highest class attendance period.

6.04 RESTRICTIONS ON PARKING OF EQUIPMENT

Parking of farm, construction, or building equipment and parking of trucks, tractors, and semi-trailers shall be restricted as follows:

- A. Parking in Residential, Institutional, Park, and Conservancy Districts. No truck tractor, semi-trailer, commercial or construction vehicle, machinery, equipment or truck with dual rear axles shall be stored on lots in Residential, Park, or Conservancy districts. Agricultural vehicles and machinery stored on an operating farm in any of the aforementioned districts are exempt from this restriction.
- B. Parking in Business and Manufacturing Districts. Vehicles and machinery used in conjunction with a business or industry may be stored, inside or outside, on the premises provided that when stored outside, they do not block a public right-of-way or obscure clear vision on roadways.

6.05 DRIVEWAYS

All driveways installed, altered, changed, replaced, or extended after August 16, 2009 shall require a permit and shall meet the following requirements:

- A. Driveways shall be at least 10 feet wide for single- and two-family dwellings, except in the R-1S and R-1S/MU districts, where driveway width should be minimized to avoid unnecessary runoff. For all other uses, driveways shall be at least of 24 feet wide at the property line.
- B. Islands between driveway openings shall be provided with a minimum of 10 feet between all driveways and 5 feet at all lot lines.
- C. Vehicular Entrances and Exits to drive-in theaters, banks, and restaurants; motels; funeral homes; vehicular sales, service stations, washing and repair stations or garages shall be not less than 200 feet from any pedestrian entrance

or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.

6.06 HIGHWAY ACCESS

No direct public or private access shall be permitted to the existing or proposed rights-of-way of the following:

- A. Arterial Streets intersecting another arterial street within 100 feet of the intersection of the right-of-way lines.
- B. Collector and Minor Land Access Streets intersecting arterial or another minor land access street within 50 feet of the intersection of the right-of-way lines.
- C. Access Barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicular ingress or egress to the above specified streets or highways.
- D. Temporary Access to the above rights-of-way may be granted by the Town Board after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed 12 months.

Draft for Public Hearing 11-10-09

SECTION 7.00 MODIFICATIONS**7.01 HEIGHT**

The district height limitations stipulated elsewhere in this Ordinance may be exceeded, but such modification shall be in accord with the following:

- A. Architectural Projections, such as spires, belfries, parapet walls, cupolas, domes, flues, and chimneys, are exempt from the height limitations of this Ordinance.
- B. Special Structures, such as grain elevators, radio and television receiving antennas, when mounted on the roof of a principal structure, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations, and smoke stacks, are exempt from the height limitations of this Ordinance.
- C. Essential Services, utilities, water towers, and electric power and communication transmission lines are exempt from the height limitations of this Ordinance.
- D. Communication Structures, such as radio and television transmission and relay towers, aerials, and observation towers, shall not exceed in height 3 times their distance from the nearest lot line.
- E. Agricultural Structures, such as barns and silos, shall not exceed in height twice their distance from the nearest lot line.
- F. Accessory Structures with a maximum sidewall of 10 feet may exceed the height limitations of this Ordinance to allow architectural simulation of the principal structure.

7.02 YARDS

The yard requirements stipulated elsewhere in this Ordinance may be modified as follows:

- A. Uncovered Stairs, landings, and fire escapes may project into any yard but shall not exceed 6 feet in width nor be closer than 5 feet to any lot line.
- B. Architectural Projections, such as chimneys, flues, sills, eaves, belt courses, and ornaments, may project into any required yard, but such projection shall not exceed 3 feet.
- C. Residential Fences, Hedges, and Walls are permitted on the property lines in the side and rear yards of residential districts, but shall not in any case exceed a height of 6 feet. Residential fences, hedges, and walls are permitted in the street yard provided they are no more than 3 feet in height, and shall not be closer than 5 feet to a street right-of-way.
- D. Security Fences are permitted on the property lines in all districts except residential districts but shall not exceed 10 feet in height and shall be of an open type similar to woven wire or wrought iron fencing.

- E. Accessory structures in non-residential districts may be placed or erected in the side or rear yard provided that no structure shall be closer than 10 feet to the principal structure and 3 feet to any lot line unless a greater setback is required by other provisions of this Ordinance.
- F. Double Frontage Lots. Lots extending from street to street may place an accessory building in the secondary street yard, however, the minimum setback for the principal structure shall be maintained.
- G. Essential Services, utilities, electric power, and communication transmission lines are exempt from the yard requirement of this Ordinance.
- H. Landscaping and vegetation are exempt from the yard requirements of this Ordinance.
- I. Dog Enclosures, Runs, or Housing shall be a minimum of 15 feet from the rear or side lot line and shall not be permitted in either the street yard or the shore yard.
- J. An exterior stairway, ramp, or motorized lift is permitted in an R-1S or R-1S/MU shore yard only when;
 - 1. It is needed to provide pedestrian access within the shore yard of a lot to the shoreline to which such shore yard pertains because of a slope having a ratio of at least 2 ft. horizontal to 1 vertical, or a slope made hazardous by unstable soils including, but not by way of limitation, rocky or wet soils.;
 - 2. No other areas on the lot in questions allow reasonably available pedestrian access to the shoreline without any of the limitations described in subparagraph 1. above;
 - 3. The minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of an exterior stairway, ramp or motorized lift installation shall be 3 feet;
 - 4. The following requirements are observed:
 - (a) Except as hereinafter provided, there shall be no more than 1 of the following 3 exterior improvements in a shore yard: exterior stairway, ramp, or motorized lift.
 - (b) "Stairway" and "ramp" shall have the same meaning as from time to time adopted by the State of Wisconsin Building Code as contained in the Wisconsin Administrative Code.
 - (c) A motorized "lift" shall mean a motor-powered wheeled or other conveyance which travels on a road or track formed of parallel lines of wooden beams, lengths of stone, iron plates or rails, whose primary function is to transport persons up and down a slope.
 - (d) Notwithstanding the provisions of subparagraph (a) above, if there is an exterior stairway or ramp lawfully existing at the time of the adoption of Paragraph 7.02 subparagraph K of this Ordinance which is located in a shore yard, a motorized lift may be installed in such shore yard if mounted to or immediately adjacent to such existing stairway or ramp.
 - (e) Exterior stairways, ramps and motorized lifts shall avoid environmentally sensitive areas, shall be placed on the most-visually inconspicuous route as viewed from the navigable waters to which such shore yard permits,(f) Established vegetation which stabilizes the slope or screens the stairway, ramp, or motorized lift from view as viewed from the navigable waters to which such shore yard pertains shall not be removed.
 - (g) Exterior stairways, ramps and motorized lifts along with any accompanying handrails and guardrails shall be colored and screened by vegetation so as to be inconspicuous when viewed in mid-summer from the navigable waters to which such shore yard pertains.

- (h) Roofs, canopies and closed sides for exterior stairways, ramps, and motorized lifts are prohibited in a shore yard unless they are detachable and are only used when necessary for safety. Open handrails or guardrails may be installed where required for safety.
- (i) Exterior stairways, ramps, and motorized lifts shall have a maximum width (outside dimension) of 4 feet and, as to motorized lifts, shall be situated as close to the terrain as possible in order to minimize their height and visibility.
- (j) One or more exterior platforms or landings forming part of an exterior stairway or ramp may be installed in a shore yard when required by the State of Wisconsin Building Code or for safety purposes, provided that they not exceed 40 square feet in area each and have no attached benches, chairs, seats, tables, or similar amenities.
- (k) Exterior stairways, ramps, and motorized lifts shall be supported on piles or footings. Any filling, grading, or excavation involved in their installation must meet the requirements of the construction site erosion control ordinances from time to time in effect under the Zoning Ordinance, Town of West Bend.
- (l) Motorized lift installations shall require a zoning permit.

7.03 ADDITIONS

Additions in the street yard of existing structures shall not project beyond the average of the existing street yards on the abutting lots or parcels. Exceptions may be possible with the approval of a Conditional Use Permit for existing lots in the R-1S and R-1S / MU Residential Districts.

7.04 AVERAGE SETBACKS

- A. The required street yard, or setback, may be decreased in any residential district to the average of the existing setbacks of the abutting structures on each side but in no case less than 15 feet. Exceptions may be possible with the approval of a Conditional Use Permit for existing lots in the R-1S and R-1S / MU Residential Districts.
- B. The required shore yard, or setback, may be decreased in any residential district to the average of the existing setbacks of the abutting structures on each side. Exceptions may be possible with the approval of a Conditional Use Permit for existing lots in the R-1S and R-1S / MU Residential Districts.
- C. In the event structures abut on only one side and an average cannot be determined, the distance may be decreased to the setback of the one structure, except as limited to 15 feet in a street yard setback as set forth in (A).
- D. The shore yard shall not be reduced to a lesser setback than allowed by any provision the Washington County Shoreland and Wetland Zoning Ordinance (75 feet) or variance approved by its Board of Adjustment.
- E. A Shoreland Permit issued by Washington County utilizing setback averaging or a variance granted by its Board of Adjustment shall eliminate additional variance approval by the Town.

7.05 CORNER LOTS

Comer lots shall provide a street yard on each street that the lot abuts. The remaining yards shall be a rear yard behind the main entrance to the structure and one side yard.

7.06 NOISE

Sirens, whistles, bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of Section 11.06.

7.07 EXISTING SUBSTANDARD LOTS

A lot which does not contain sufficient area to conform to the dimensional requirements of this ordinance but which was of record in the Washington County Register of Deeds office prior to April 1, 1986 and is in separate ownership from abutting lands or any lot created and approved thereafter may be utilized as a single-family dwelling site, provided:

- A. Single-family dwellings are a permitted use in the zoning district.
- B. All of the requirements of the zoning district shall be complied with insofar as is practical but shall not be less than the following:

Draft for Public Hearing 11-10-09

Existing Substandard Lots

Lot Size	Width	Minimum - 50 feet
	Area	Minimum - 10,000 square feet
Principal Structure	Area	Minimum - 1,200 square feet with at least 950 square feet on the first floor
	Height	No more than 35 feet
Yards	Street	Minimum - 25 feet
	Rear	Minimum - 25 feet
	Side	Minimum - 10 feet
	Shore	Minimum - 75 feet
Total Impervious Surface Area		Maximum - 35 percent

Existing Lots in the R-1S District and all lots in the R-1S/MU District shall be excluded from the requirements of this Subsection.

- C. If 2 or more substandard lots with continuous frontage have the same ownership as of April 1, 1986, the classification and use of said lots shall be governed as follows:
- When such lots are vacant, they shall be treated as being combined into one or more lots which comply with the lot size, building and yard requirements of the zoning district where located, but in the event district zoning requirements cannot be met by combining such vacant lots, then the resulting lot shall be subject to the requirements listed in the "Existing Substandard Lots" table shown above.
 - When such lots have been used as one lot, i.e., by the placement of an accessory building on the adjacent lot or by the encroachment of setback requirements, they shall be treated as one lot.
 - When one developed lot abuts one undeveloped lot, the undeveloped lot may be treated as a separate lot, provided:
 - Both lots meet the requirements of subsection (B) above, and
 - The developed lot is sewered or has a functional onsite sanitary system.
- D. Applications for permits for the improvement of a lot with lesser dimensions and requisites than those stated in subsection (B) shall be issued only after a variance granted by the Zoning Board of Appeals.

SECTION 8.00 SIGNS**8.01 PURPOSE AND INTENT**

The intent of this Ordinance is to provide for and regulate the location and safe construction of signs in a manner to ensure that signs are compatible with surrounding land uses, are well maintained, and express the identity of individual proprietors and the Town as a whole.

8.02 COMPLIANCE

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

8.03 SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A PERMIT

The following signs are permitted in all zoning districts without a permit, subject to the following regulations:

- A. Real Estate Signs not to exceed 8 square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
- B. Name, and warning, Signs not to exceed 2 square feet located on the premises.
- C. Home Occupation and Professional Home Office Signs not to exceed 2 square feet in area and mounted flush against the dwelling.
- D. Election Campaign Signs provided that permission shall be obtained from the property owner, renter or lessee; and provided that such sign shall not be erected prior to the first day of the "election campaign period" as defined in Section 12.04 of the Wisconsin Statutes, and shall be removed within 4 days following the election.
- E. Rummage Sale and Garage Sale signs provided that no such signs shall be erected or placed within a public right-of-way and further provided that such signs are removed within 24 hours following the sale.
- F. Bulletin Boards for public, charitable or religious institutions not to exceed 8 square feet in area located on the premises.
- G. Memorial Signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
- H. Official Signs, such as traffic control, parking restrictions, information, and notices.
- I. Land Trust Signs indicating the property boundaries of the property are not to exceed 4 square feet.

8.04 SIGNS PERMITTED IN ALL RESIDENTIAL DISTRICTS WITH A PERMIT

The following signs are permitted in any residential district and are subject to the following regulations:

- A. Permanent Real Estate Development Signs placed at the entrance to a subdivision or development shall contain only the name of the subdivision or development and shall meet all the yard requirements of the district in which it is located. The Plan Commission shall determine the appropriate size of the sign based on the design of the sign and its compatibility with adjacent land uses.
- B. Temporary Development Signs for the purpose of designating a new business or development, or for the promotion of a subdivision may be permitted for a limited period of time provided that the sign shall not exceed 32 square feet in area and shall meet all the yard requirements of the district in which it is located. The Town Plan Commission shall specify the period of time the sign may remain based on the size of the development allowing a reasonable time to market the development.

8.05 SIGNS PERMITTED IN ALL BUSINESS AND MANUFACTURING DISTRICTS WITH A PERMIT

Signs are permitted in all business and manufacturing districts subject to the following restrictions:

- A. Wall Signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface, shall not exceed 200 square feet in area for any one premises, and shall not extend above the roof line of the building.
- B. Protecting Signs fastened to, suspended from, or supported by structures shall not exceed 20 square feet in area for any one premises; shall not extend more than 6 feet into any required yard; shall not extend more than 3 feet into any public right-of-way; shall not be less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean centerline street grade; and shall not be less than 10 feet above the sidewalk nor 15 feet above a driveway or an alley.
- C. Ground Signs shall not exceed 20 feet in height above the mean centerline street grade, shall meet all yard requirements for the district in which they are located, and shall not exceed 100 square feet on 1 side or 200 square feet on all sides for any 1 premise.
- D. Pole Signs shall not exceed 100 square feet on 1 side nor 200 square feet on all sides for any 1 premises; shall not extend more than 3 feet into any public right of way; shall not be less than 10 feet from all side lot lines; shall not exceed 35 feet in height above the mean centerline street grade; and shall not be less than 10 feet above the lot grade or sidewalk grade and not less than 15 feet above a parking lot, driveway or other area used by motor vehicles
- E. Driveway Ingress/Egress and Directional Signs to identify parking lot entrances and exits, or direct customers to drive-in windows, may be placed adjacent to driveways provided that no ingress/egress sign shall be placed in the street right-of-way; shall be more than 2 ½ feet in height; and no ingress/egress sign face shall exceed 18 inches in length.
- F. Marquee, Awning, or canopy Signs affixed flat to the surface of the marquee, awning, or canopy are permitted providing that the sign does not extend vertically or horizontally beyond the limits of said marquee, awning, or canopy. A marquee, awning, or canopy may extend to within 1 foot of the vertical plane formed by the curb. A name sign not exceeding 2 square feet in area located immediately in front of the entrance to an establishment may be suspended from a canopy provided that the name sign shall be at least 10 feet above the sidewalk.
- G. Roof Signs are prohibited in the Town of West Bend.

- H. Window Signs, except for painted signs and decals, shall be placed only on the inside of commercial buildings.
- I. Combinations of any of the above signs shall meet all the requirements for the individual sign. The total number of signs on any premises shall be limited as follows:
1. Shopping Centers may provide 1 ground or pole sign displaying the name of the shopping center, lists of individual stores, hours of operation, and/or special sales information for each 500 feet upon which the shopping center abuts. The shopping center may also provide 1 wall sign and/or 1 canopy sign for each business in the shopping center.
 2. Gasoline and/or service stations may provide 1 ground or pole sign displaying the name of the station and the brand of gasoline sold. In addition, a maximum of 2 ground signs may be provided which lists products sold and services offered. One wall sign also may be provided.
 3. For all other free standing businesses and industries, total signs shall be limited by the following table:

<i>Sign Requirements</i>	
Floor Area	Maximum Number of Signs Permitted
0 - 5,000 sq. ft.	2
5,001 - 20,000 sq. ft.	3
20,001 - 50,000 sq. ft.	4
More than 50,000 sq. ft.	5

4. Window signs, driveway ingress/egress signs and parking directional signs shall not be subject to the limitation on number of signs.

8.06 PORTABLE SIGNS

The Zoning Administrator may permit the temporary use of a portable sign for advertising purposes in any district provided that the portable sign will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Portable sign permits shall not be granted for a period of more than 60 days in any 365-day period. The permit required in Section 8.11 shall be required for portable signs. Portable signs mounted on trailers are prohibited.

8.07 FACING

No sign except those permitted in Sections 8.03 and 8.04 shall be permitted to face a residence within 100 feet of such residence.

8.08 LIGHTING AND COLOR

Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. Signs shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. Signs shall not be placed so as to obstruct or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility upon public ways. Signs may be illuminated but non-flashing. Signs shall not be revolving or animated, however, copy on time and temperature devices may be cyclical. Signs in residential districts may be illuminated only with Town Board approval.

8.09 CONSTRUCTION AND MAINTENANCE STANDARDS

- A. Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of area; and shall be constructed to receive dead loads as required in the Town Building Code or other ordinance.
- B. Protection of the Public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
- C. Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.
- D. Supporting Members or Braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass, or other non-corrosive incombustible material. Every means or device used for attaching any sign shall extend through the walls of the building should the Zoning Administrator/Building Inspector determine that the safe and permanent support of such sign so requires and shall be securely anchored by wall plates and nuts to the inside of the walls in accordance with instructions given by the Building Inspector. Small flat signs containing less than 10 sq. ft. of area may be attached to a building by the use of lag bolts or other means to the satisfaction of the Building Inspector.
- E. No Signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by the Fire Department of the Town, as necessity therefore may require.

8.10 EXISTING SIGNS

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the size or location does not conform to this Ordinance. However, it shall be deemed a nonconforming use or structure and the provisions of Section 9.0 of this Ordinance shall apply.

Exception: Change of copy with a permit may be allowed.

8.11 SIGN PERMIT

Applications for a sign permit shall be made on forms provided by the Zoning Secretary and shall contain or have attached thereto the following information:

- A. Name, Address, and telephone number of the applicant. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
- B. Name of Person, firm, corporation, or association erecting the sign.
- C. Written Consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
- D. A Scale Drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
- E. A Scale Drawing indicating the location and position of such sign in relation to nearby buildings or structures.
- F. Copies of any other permit required and issued for said sign, including the written approval by the Electrical Inspector; in the case of illuminated signs, who shall examine the plans and specifications, re-inspecting all wiring and connections to determine if the same complies with the Town Electrical Code.
- G. Additional Information as may be required by the Town Board, Zoning Administrator/Building Inspector, or Town Plan Commission.
- H. Sign Permit Applications shall be filed with the Zoning Secretary, who shall review the application for its completeness and accuracy and approve or deny, in writing, the application within 15 working days of receipt from the applicant unless the time is extended by written agreement with the applicant. A sign permit shall become null and void, if work authorized under the permit has not been completed within 6 months of the date of issuance.
- I. Bond Every applicant for a sign permit shall, before the permit is granted, execute a cash bond or other appropriate surety in a sum fixed by the Zoning Administrator, but not to exceed \$25,000. The form of the cash bond or other surety shall be approved by the Town Attorney, indemnifying the Town against all loss, cost of damages, or expense incurred or sustained by or recovered against the Town by reason of the erection, construction, or maintenance of the sign. A liability insurance policy issued by an insurance company authorized to do business in the State of Wisconsin and conforming to the requirements of this Section may be permitted by the Town Attorney in lieu of a bond.

8.12 MEASURING SIGNS

In calculating the area of a sign to determine whether it meets the requirement of this Ordinance, the Zoning Administrator/Building Inspector shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the area calculation. Area of irregular shaped signs or signs containing 2 or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

SECTION 9.00 NONCONFORMING USES, STRUCTURES, AND LOTS**9.01 EXISTING NONCONFORMING USES**

The lawful nonconforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform to the provisions of this Ordinance; however:

- A. If such nonconforming use is discontinued or terminated for a period of 12 consecutive months, it is no longer permitted and any future use of the property, and any structure thereon, shall be made to conform to the applicable requirements of this Ordinance.
- B. If the legal nonconforming use of a temporary use of a temporary structure is discontinued or terminated for a period of 12 consecutive months, such legal nonconforming use may not be commenced.
- C. Uses, which are nuisances, shall not be permitted to continue as legal nonconforming uses.

9.02 EXISTING NONCONFORMING STRUCTURES

Any such structure conforming in respect to use but not in respect to frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use. The use of a structure existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform to the established building setback line along arterial streets and highways, or the yard, height, parking, loading, access, and lot area provisions of this Ordinance; however:

- A. Total Lifetime Structural Repairs or alterations shall not exceed 50 percent of the Town's equalized value of the structure at the time of its becoming a nonconforming structure unless it is permanently changed to conform to the provisions of this Ordinance.
- B. Additions and Enlargements which change the exterior dimensions of the structure but do not increase the dimensional nonconformity beyond that which existed before the work commenced, are permitted provided they do not exceed the 50 percent requirement.
- C. Nonconforming Structures which are damaged or destroyed by fire, explosion, flood, violent wind, vandalism, ice, snow, mold, infestation, or other calamity, may be restored to the size, location, and use that it had immediately before the damage or destruction occurred, provided that such calamity occurred on or after March 2, 2006.
- D. Nonconforming Structures may be moved and, insofar as is practicable, shall conform with the established building setback lines along streets and the yard, height, parking, loading, and access provisions of this Ordinance.

9.03 CHANGES AND SUBSTITUTIONS

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

SECTION 10.00 SITE PLAN REVIEW AND ARCHITECTURAL CONTROL**10.01 PURPOSE AND INTENT**

For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall commence any use or erect any structure, without first obtaining the approval of the Zoning Administrator or the Town Board, as herein specified, of detailed site, landscape and architectural plans as set forth in this section.

The Zoning Administrator shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, utilization of landscaping and open space as deemed appropriate for all development in the residential districts.

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, loading and unloading areas, highway access, traffic generation and circulation, drainage, sewerage and water systems, utilization of landscaping and open space, and the proposed operation for development in all districts except any residential district.

10.02 PRINCIPLES

To implement and define criteria for the purposes set forth in Section 10.01, the following principles are established to apply to all new structures and uses and to changes or additions to existing structures and uses.

- A. The proposed use(s) shall conform to the uses permitted in the applicable zoning district.
- B. The dimensional arrangement of buildings and structures shall conform to the required area, yard, setback and height restrictions of the Ordinance.
- C. The relative proportion of the scale and mass of a building to neighboring existing buildings, to pedestrians or observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- D. The visual continuity of roof shapes, rooflines and their contributing elements (e.g. parapet walls, coping and cornices) shall be maintained in building development or redevelopment.
- E. No building shall be permitted if the design or exterior appearance will be of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
- F. No building shall be permitted if the design or exterior appearance of will be so similar to those adjoining as to create excessive monotony or drabness.
- G. No building shall be permitted where any exposed façade is not constructed or faced with a finished material which is not aesthetically compatible with nearby façades of surrounding buildings or presents an unattractive appearance to the public and to surrounding properties.
- H. The façade of commercial, industrial, governmental, institutional, and recreational buildings which face upon a street right-of-way shall be finished with an aesthetically pleasing material. A minimum of 30 percent of a façade facing and existing or future street shall be finished with brick, wood, fieldstone, decorative masonry material, decorative glass panels, or decorative precast concrete panels, except where the building style requires a different material. Attractive aluminum or vinyl siding which has the appearance of wood siding, a “brushed” surface or

other compatible attractive material may, however, be permitted. Such finished material shall extend for a distance of at least 20 feet along the sides of the structure. All buildings on corner and double-frontage lots shall have the required finished façade facing each street. No plain concrete block building or metal-faced building, except those with an attractive finished surface mentioned above shall be permitted. Samples of all materials shall be furnished to the Plan Commission for review and approval.

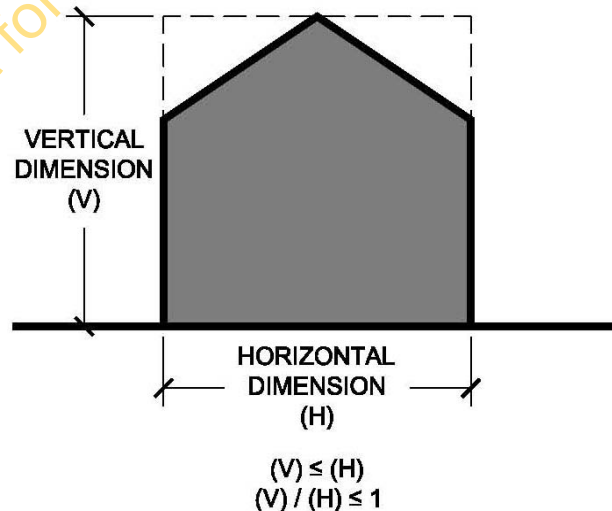
- I. Since the selection of building colors has a significant aesthetic and visual impact upon the public and neighboring properties, colors shall be selected to be in general harmony with existing neighborhood buildings. The use of bright colors should be limited and used only as an accent such as, for example, on trims.
- J. Accessory buildings shall be built with materials compatible with those of the principal building on the same site.
- K. No overhead door or loading dock for commercial, manufacturing, institutional or park buildings shall face a public street. The Plan Commission may permit overhead doors and docks to face a public street when it has made a finding that there is no feasible alternative location for such doors or docks and, insofar as is practicable, such doors and docks facing public streets are screened.
- L. Outside storage areas for inventory, materials, equipment, supplies, scrap, and other materials utilized in the day-to-day operation of the principal use shall be paved as determined by the Plan Commission, and screened from view from public streets with appropriate vegetation or fencing or wall of a material compatible with the principal structure and the surrounding area. The Plan Commission may permit the outdoor display of products or merchandise when it makes a finding that such a display is essential to a business or industrial use, such as a landscape-nursery or car-sales business, and attractive periphery landscaping is provided.
- M. Mechanical equipment, such as heating, air-conditioning, and ventilating equipment, at grade-level and on rooftops shall be screened from public view or located in a manner that is unobtrusive.
- N. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
- O. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the Town.
- P. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical to prevent indiscriminate or excessive earth moving or clearing of property, disfiguration of natural land forms, and disruption of natural drainage patterns.
- Q. Buildings and uses shall provide for safe traffic circulation and safe driveway locations.
- R. Buildings and uses shall provide adequate parking and loading areas.
- S. Appropriate Buffers shall be provided between dissimilar uses in accordance with this Ordinance.
- T. Appropriate erosion control measure shall be utilized in all new development.
- U. Buildings and uses shall be provided with adequate public services as approved by the appropriate utility.

- V. Refuse and recycling areas shall be screened by completely enclosing such areas with a wall or fence of a material compatible with the principal structure and surrounding area. The wall or fence shall be surrounded with a landscape bed at least 3 feet wide consisting of plants, except at the gate.
- W. No buildings shall impair the enjoyment or historic attractions of significant historic interest.
- X. Buildings on premises which have historic significance shall be identified by a plaque to be provided by the Town and should be encouraged to be maintained or restored, insofar as practicable, in the manner which will protect its historic significance in accordance with the standards promulgated by the U.S. Department of the Interior for historic preservation projects.
- Y. Development and redevelopment shall be consistent with the public goals, objectives, principles, standards, policies and urban design guidelines set forth in the adopted comprehensive plan or element thereof.
- Z. Buildings and uses shall make appropriate use of open space. The Zoning Administrator and/or Plan Commission may require appropriate landscaping and planting screens. A landscaping maintenance program, together with appropriate assurances, shall be submitted. (For additional landscape standards refer to Section 11.11)
- AA. Other principles deemed appropriate by the Town of West Bend may be imposed by the Plan Commission.
- BB. Building and site development standards for the R-1S and R-1S/MU Districts:

Appropriate architectural plans, building elevations, and elevations of surrounding building (to scale and with fenestration patterns, etc.) must be submitted for review for all building work requiring a zoning permit. The Zoning Administrator and/or Plan Commission will determine the type of drawings and support materials appropriate for the proper evaluation of the building work to be performed.

1. Building Proportions:

The construction of buildings with tall and thin proportions as viewed from the street or lake is strongly discouraged. Whenever possible, street side and shore side elevations shall not exceed 1:1 vertical to horizontal proportions (See Building Proportions Diagram).



Building Proportions Diagram

2. Roofs:
 - (a.) Simple roof forms should be used on all buildings to reflect the historic lake character of the neighborhoods.
 - (b.) Gable roofs must have a minimum 6/12 pitch.
 - (c.) Hip roofs must have a minimum 4/12 pitch.
 - (d.) Shed roofs must be between 4/12 and 12/12 and be used against a main structure wall or as a dormer only.
 - (e.) Flat roofs shall not exceed 300 square feet in size.
 - (f.) Dormers, eyebrow windows and skylights are permitted.
3. Entries:
 - (a.) All structures should have the main or front entries oriented towards and visible from the street or entrance court.
 - (b.) When possible, buildings on the lake should have a second front entry oriented towards the lake. Lakeside entries should not appear as back doors, but rather should be scaled and detailed to appear as an additional principal entry to the building.
4. Porches:
 - (a.) Where practical, covered porches (6' x 8' minimum) should be incorporated into the street and/or side yard of all future building plans and applicable renovations. Covered porches or open decks (6' x 12' minimum) should be incorporated into the shore and/or side yard of all future building plans and applicable renovations.
 - (b.) All porches or decks should be associated with a building entry and be integrated with the building architecture.
 - (c.) The floor of shore yard porches and decks should be no higher than 10 feet above the surrounding ground level.
 - (d.) All porches and decks should contain a high level of design detail and be constructed of high-quality materials to reflect their visibility from the lake.
5. Windows:
 - (a.) All building windows should be rectangular and vertically proportioned. Square, circular, semi-circular, octagonal or oval shaped windows should be used sparingly as accent windows in the overall building composition. Triangular or trapezoidal windows should not be used.
 - (b.) Any large horizontal or other expanse of glazing should be broken down into smaller window areas by the inclusion of strong vertical mullion elements and window muntins. All window and door openings should be framed with substantial trim boards (5" recommended minimum).
 - (c.) Window glazing should be essentially clear; the use of heavily tinted, opaque, or mirrored glass is not permitted. Stained glass windows are permitted as accent windows.
6. Garages:
 - (a.) Garages and garage doors should be scaled appropriately to the size of the principal structure. The main mass of the garage should be complementary and subordinate to the main mass and positioning of the principle structure.
 - (b.) Garages and garage doors should be positioned so they do not dominate the view from the street and neighboring properties. Wherever possible, garage doors should be side loaded and screened from public view on adjacent streets

- (c.) When garage doors must face the street, the street facing façade should include an upper level balcony, terrace, trellis, or other projecting element above the door area. The area above the garage should include glazed window or door openings with a minimum 15 square feet of glazed area.
- (d.) When possible, no more than 50% of a street facing building façade should be made of garage doors.
- (e.) When possible, single garage doors should be used to create a more intimately scaled façade and when appropriate, garage doors should be painted or stained darker colors and constructed of panelized wood.

7. Stormwater:

- (a.) Appropriate site, landscape, paving, stormwater, utility, and/or grading plans must be submitted for all site development activities that involve over 500 square feet of site disturbance. The Zoning Administrator and/or Plan Commission will determine the type of drawings and support materials appropriate for the proper evaluation of the site work to be performed
- (b.) All site runoff must be treated or stored on-site by approved infiltration and/or storage techniques such as rain gardens, bio-infiltration swales, grassed filter strips, rain barrels, cisterns, permeable paving or other approved methods.
- (c.) The use of chemicals such as fertilizers, pesticides, or fungicides should be minimized to protect surface and groundwater quality.
- (d.) Lots must meet all stormwater ordinances and standards established by Washington County and the Town of West Bend.

10.03 ADMINISTRATION

Plan data shall be submitted to the Zoning Administrator who shall review all applications in the Residential Districts. The Zoning Administrator shall transmit all applications and their accompanying plans in other districts to the Plan Commission for their review. Plan data to be submitted with all plan review applications shall include the following:

- A. Site plan drawn to a recognized engineering scale.
- B. Name of project.
- C. Owner's and/or developer's name and address.
- D. Architect and/or engineer's name and address.
- E. Date of plan submittal.
- F. Scale of drawing, north arrow, and site size information (area in square feet or acres).
- G. Existing and proposed topography shown at contour intervals of 2 feet or less. Topography shall extend 40 feet onto adjacent property or to the building on the adjacent lot, whichever is greater.
- H. The characteristics of soils related to contemplated specific uses.
- I. Total number and location of parking spaces.
- J. All building and yard setback lines.
- K. Where applicable, both the 100 year recurrence interval floodplain and the floodway; environmental corridors and isolated natural resource areas; and wetland areas.
- L. The type, size, and location of all existing and proposed structures with all building dimensions shown.
- M. The height of all existing and proposed buildings and other structures.
- N. Existing and proposed street names.

- O. Existing and proposed rights-of-way and widths.
- P. Existing and proposed easements for and locations of all utility lines, including sanitary sewers, water mains, storm sewers, other drainage facilities and features, communications lines, electrical lines, natural gas lines and other utilities present on and around the site, as applicable.
- Q. Proposed stormwater management facilities, including detention/retention areas.
- R. Proposed location and type of all signs to be placed on the site.
- S. The location and type of all outdoor lighting.
- T. Existing isolated, individual trees and the boundary or woodlands.
- U. Location, extent, and type of proposed plantings.
- V. Location of pedestrian sidewalks and walkways, and bicycle lanes or paths.
- W. A Graphic outline of any development staging.
- X. Scaled architectural plans, color building elevations, and color perspective drawings and color sketches illustrating the design and character of proposed structures and relevant surrounding structures and properties.
- Y. Samples of all exterior building materials and colors.
- Z. Other data as required by the Plan Commission.

10.04 REVIEW AND FINDINGS

The Plan Commission shall review the referred plans within a reasonable period of time following their submittal, but not more than 60 days. The Plan Commission shall not approve any plans unless they find after viewing the application that the structure or use, as planned, will not violate the intent and purpose of this Ordinance. The Plan Commission will approve said plans only after determining the proposed building or buildings will not impair an adequate supply of light and air to the adjacent property, or substantially increase the danger of fire, traffic congestion, or otherwise endanger the public health or safety.

10.05 SURETIES

The Town Board may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission may require appropriate sureties to guarantee that improvements will be completed on schedule.

10.06 APPEALS

Any person or persons aggrieved by any decisions of the Zoning Administrator or Plan Commission related to plan review may appeal the decision to the Zoning Board of Appeals. Such appeal shall be filed with the Town Clerk within 30 days after filing of the decision in the Zoning Administrator.

SECTION 11.00 PERFORMANCE STANDARDS**11.01 COMPLIANCE**

This Ordinance permits specific uses in specific districts; and these performance standards are designed to limit, restrict, and prohibit the effects of those uses outside their premises or district. All structures, lands, air, and waters shall hereafter, in addition to their use, site, and sanitary regulations, comply with the following performance standards.

11.02 AIR POLLUTION

No person or activity shall emit any fly ash, dust, fumes, vapors, mists, or gases in such quantities so as to substantially contribute to exceeding established state or federal air pollution standards.

11.03 FIRE AND EXPLOSIVE HAZARDS

All activities involving the manufacturing, utilization, processing, or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion and with adequate fire-fighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed, and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system. The above-ground storage capacity of materials that produce flammable or explosive vapors shall not exceed 30,000 gallons.

11.04 GLARE AND HEAT

No activity shall emit glare or heat that is visible or measurable outside its premises except activities which may emit direct or sky reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.

11.05 WATER QUALITY PROTECTION

No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life. All stormwater runoff should be free of sediment, chemicals, or other contaminants to protect water quality in the Town.

In addition, no activity shall withdraw water or discharge any liquid, or solid materials so as to exceed, or contribute toward the exceeding of, the minimum standards and those other standards and the application of those standards set forth in Chapter NR-102 of the Wisconsin Administrative Code.

11.06 NOISE

No activity in an M-1 Industrial District shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

M-1 Industrial District Noise

Octave Band Frequency (Cycles Per Second)			Sound Level (Decibels)
0	To	75	79
75	To	150	74
150	To	300	66
300	To	600	59
600	To	1200	53
1200	To	2400	47
2400	To	4800	41
Above			39

No other activity in any other district shall produce a sound level outside its premises that exceeds the following:

Any Other District Noise

Octave Band Frequency (Cycles Per Second)			Sound Level (Decibels)
0	To	75	72
75	To	150	69
150	To	300	59
300	To	600	52
600	To	1200	46
1200	To	2400	40
2400	To	4800	34
Above		4800	32

All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness.

11.07 ODORS

No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious, or unhealthful outside their premises. The guide for determining odor measurement and control shall be Chapter 13, Air Pollution Abatement Manual-1960, prepared by the Manufacturing Chemists' Association, Inc., Washington, D.C.

11.08 RADIOACTIVITY AND ELECTRICAL DISTURBANCES

No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

11.09 VIBRATION

No activity in any district shall emit vibrations that are discernible without instruments outside its premises. No activity shall emit vibrations that exceed the following displacement measured with a three-component measuring system:

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

11.10 CONSTRUCTION SITE EROSION CONTROL

11.101 FINDINGS AND PURPOSE

The Town of West Bend finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of this state and the waters of the Town.

It is the purpose of this Ordinance to preserve the natural resources; to protect the quality of the waters of the state and the Town of West Bend; and to protect and promote the health, safety, and general welfare of the people of the Town of West Bend, to the extent practicable, by minimizing the amount of sediment and other pollutants carried by runoff or discharged from construction sites to lakes, streams, and wetlands.

11.102 APPLICABILITY

Any land disturbing activity shall be subject to the erosion and sediment control provisions of this Ordinance, if:

- A. A Subdivision Plat requiring review and approval by the Town of West Bend would result, or if construction of buildings on platted lots results;

- B. A Certified Survey Map requiring review and approval by the Town of West Bend would result, or if construction of buildings on certified survey map lots results;
- C. An Area of 4,000 square feet or greater will be disturbed by excavation, grading, filling, or other earth-moving activities, resulting in a loss or removal of protective ground cover, vegetation; or
- D. Excavation, fill, or any combination thereof, will exceed 400 cubic yards; or
- E. Any Public (federal, state or local) street, road or highway is to be constructed, enlarged, relocated or substantially reconstructed; or
- F. Any Water Course is to be changed, enlarged, or materials are removed from a stream or lake bed; or
- G. Any Utility Work in which underground conduits, piping, wiring, waterlines, sanitary sewers, storm sewers, or similar structures will be laid, repaired, replaced or enlarged, if such work involves more than 300 linear feet of earth disturbance.

11.103 CONTROL OF EROSION AND POLLUTANTS DURING LAND DISTURBANCE AND DEVELOPMENT

Any landowner, land occupier, or land user performing an activity described in Section 11.102 of this Ordinance shall comply with the following standards and criteria:

- A. General Erosion Control Standard. All erosion control measures required to comply with this Ordinance shall meet the design criteria, standards, and specifications identified by the Town of West Bend.
- B. Maintenance of Control Measures. All sediment basins and other control measures necessary to meet the requirements of this Ordinance shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.
- C. Site Dewatering. Water pumped from the site shall be treated by temporary sedimentation basins, grit chambers, sand filters, upslope chambers, hydrocyclones, swirl concentrators, or other appropriate controls designed and used to remove particles of 100 microns or greater for the highest dewatering pumping rate. If the water is demonstrated to have no particles greater than 100 microns during dewatering operations, then no control is needed before discharge, except as determined by the Town Plan Commission. Water may not be discharged in a manner that causes erosion of the site or receiving channels.
- D. Waste and Material Disposal. All waste and unused building materials (including garbage, debris, cleaning wastes, wastewater, toxic materials, or hazardous materials) shall be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.
- E. Tracking. Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways. Any sediment reaching a public or private roadway shall be removed by street cleaning (not flushing) before the end of each workday.
- F. Drain Inlet Protection. All storm drain inlets shall be protected with a straw bale, filter fabric, or equivalent barrier meeting accepted design criteria, standards and specifications.

- G. Site Erosion Control. The following criteria apply only to land development and land disturbing activities that result in runoff leaving the site:
1. Channelized runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, the channel shall be protected as described in this Section. Sheetflow runoff from adjacent areas greater than 10,000 square feet in area shall also be diverted around disturbed areas unless shown to have resultant runoff velocities of less than 0.5 feet per second across the disturbed area for the set one year design storms. Diverted runoff shall be conveyed in a manner that will not erode the conveyance and receiving channels. Guidelines of the U. S. Soil Conservation Service for allowable velocities in different types of channels should be followed.
 2. All activities on the site shall be conducted in a logical sequence to minimize the area of bare ground exposed at any one time.
 3. Runoff from the entire disturbed area on the site shall be controlled by meeting either subparagraphs (a) and (b) below, or subparagraphs (a) and (c) below:
 - (a) All disturbed ground left inactive for 7 or more calendar days shall be stabilized by seeding or sodding, or by mulching or covering, or other equivalent control measure. Seeding or sodding should be done prior to September 15 to be effective.
 - (b) For sites with more than 10 acres disturbed at one time, or if a channel originates in the disturbed area, one or more sedimentation basins shall be constructed. Each sedimentation basin shall have a surface area of at least 1 percent of the area draining to the basin and at least 3 feet of depth, and shall be constructed in accordance with accepted design specifications. Sediment shall be removed to maintain a depth of 3 feet. The basin shall be designed to trap sediment greater than 15 microns in size, based on the set of one-year design storms having durations from 0.5 to 24 hours. The basin discharge rate shall also be sufficiently low as to not cause erosion along the discharge channel or the receiving water.
 - (c) For sites with less than 10 acres disturbed at one time, filter fences, straw bales, or equivalent control measures shall be placed along all sideslope and downslope sides of the site. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
 4. Any soil or dirt storage piles containing more than 10 cubic yards of material should not be located with a downslope length of less than 25 feet to a roadway or drainage channel. If remaining for more than 7 calendar days, they shall be stabilized by mulching, vegetative cover, tarps or other means. Erosion from piles which will be in existence for less than 7 calendar days shall be controlled by placing straw bales or filter fence barriers around the pile. In-street utility repair or construction dirt or soil storage piles located closer than 25 feet to a roadway or drainage channel must be covered with tarps or suitable alternative control if exposed for more than 7 calendar days, and the storm drain inlets must be protected with straw bales or other appropriate filtering barriers.
- H. In addition to the requirements of this Section, all activities must also comply with the applicable Sections of the Stormwater Ordinance.

11.104 PERMIT APPLICATION, CONTROL PLAN, AND PERMIT ISSUANCE

No landowner or land user may commence a land disturbing or land development activity subject to this Ordinance without receiving prior approval of a control plan for the site and a Land Disturbing Permit from the Zoning Administrator. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land development activity subject to the terms of this Ordinance shall submit an application for a permit and a control plan and the permit fee required by Section 3.01 of this Ordinance to the Zoning Administrator. By submitting the application, the applicant is authorizing the Zoning Administrator or his agent to enter the site to obtain information required for review of the control plan.

A. Contents of the Control Plan for Land Disturbing Activities Covering More Than One Acre. The control plan shall contain any information which the Zoning Administrator may need to determine soil erosion, sedimentation potential and control. The Zoning Administrator may require the following, as well as any other information which, in his judgment, is needed to evaluate the control plan:

1. Existing Site Map. A map of existing site conditions at a scale of not smaller than 1 inch equals 50 feet (or at other scale requested by the Zoning Administrator) showing the following:
 - (a) Site boundaries and adjacent lands which accurately identify site location;
 - (b) Location of lakes, streams, wetlands, channels, ditches, and other water courses on and immediately adjacent to the site;
 - (c) The limits and elevations of the 100-year recurrence interval floodplain, and, where applicable, floodway and flood fringe boundaries;
 - (d) Location of predominant soil types;
 - (e) Vegetative cover;
 - (f) Location and dimensions of existing stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site;
 - (g) Location and dimensions of existing utilities, structures, roads, highways, and paving; and
 - (h) Site topography with a maximum contour interval of 5 feet.
2. Plan of Final Site Conditions. A plan of final site conditions at the same scale as the existing site map scale must be prepared which shows the proposed changes in the site.
3. Site Construction Plan. A site construction plan of the site prepared at a scale of not smaller than 1 inch equals 50 feet (or at other scale requested by the Zoning Administrator) showing the following:
 - (a) Locations and dimensions of all proposed land disturbing activities;
 - (b) Locations and dimensions of all temporary soil or dirt stockpiles;
 - (c) Location and dimensions of all construction site management control measures necessary to meet the requirements of this Ordinance;
 - (d) A schedule of anticipated starting and completion dates of each land disturbing activity, including the dates of installation of construction site control measures necessary to meet the requirements of this Ordinance; and

- (e) Provisions for maintenance of the construction site control measures during construction.
- B. Contents of the Control Plan Statement for Land Disturbing Activities Covering Less Than One Acre. Landowners and land users performing minor land disturbing activities (less than 1 acre) shall prepare an erosion control plan statement--with a simple sketch drawn to a scale not smaller than 1 inch equals 100 feet--which briefly describes the site erosion control measure that will be used to meet the requirements if this Ordinance. The erosion control plan statement shall also include a site development schedule.
- C. Review of the Control Plan. Within 45 calendar days of the receipt of the application, control plan or control plan statement, and fee, the Zoning Administrator shall review the application and control plan to determine if the requirements of this Ordinance have been met. The Zoning Administrator shall approve the plan and issue the permit. If the requirements of this Ordinance have not been met, the Zoning Administrator shall inform the applicant in writing and may either require resubmission of the plan with additional information or deny the permit. Within 30 calendar days of the submission of a revised plan, the Zoning Administrator shall again determine if the plan meets the requirements of this ordinance. If the plan is disapproved, the Zoning Administrator shall inform the applicant in writing of the reasons for disapproving the plan.
- D. Permits.
 - 1. Duration. Land Disturbing permits shall be valid for a period of 180 calendar days, or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The Zoning Administrator may extend the permit period one or more times for up to an additional 180 days, The Zoning Administrator may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this Ordinance.
 - 2. Surety Bond. As a condition of approval and issuance of the Land Disturbing Permit, the Zoning Administrator may require the applicant to deposit an appropriate irrevocable letter of credit or cash bond to guarantee the faithful execution of the approved control plan and permit conditions. The form of the letter of credit or cash bond shall be such that it is readily available for Town use without any restrictions and as approved by the Town Attorney.
 - 3. Permit Conditions. All permits shall require the permittee to:
 - (a) Notify the Zoning Administrator within 2 working days before commencing any land disturbing activity;
 - (b) Notify the Zoning Administrator within 14 calendar days after completing any land disturbing activity and/or the completion of installation of any onsite detention facility;
 - (c) Obtain written permission from the Zoning Administrator prior to modifying the approved control plan;
 - (d) Install all control measures as identified in the approved control plan;
 - (e) Maintain all road drainage systems, stormwater drainage systems, control measures, and other facilities identified in the control plan;
 - (f) Repair any situation or erosion damage to adjoining surfaces and drainageways resulting from land disturbing and land development activities;

- (g) Inspect the construction control measures after each rain of 0.5 inches or more or at least once each week, and make needed repairs;
- (h) Allow the Zoning Administrator or his agent to enter the site for the purpose of inspecting for compliance with the approved control plan or for performing any work necessary to bring the site into compliance with the approved control plan;
- (i) Keep a copy of the approved control plan on the site at all times.

11.105 INSPECTION

The Zoning Administrator shall inspect construction sites at least once each month during the period starting March 1 and ending October 31 and at least twice each month during the period beginning November 1 and ending February 28 to ensure compliance with the approved control plan. If land disturbing and land development activities are being carried out without a permit, the Zoning Administrator shall institute the appropriate enforcement action.

11.106 ENFORCEMENT

- A. The Town May Post a Stop-Work Order if any land disturbing or land development activity regulated by this Ordinance is undertaken without a permit; the control plan is not being implemented in a good faith manner; or the conditions of a permit are not being met.
- B. If the Permittee Does Not Cease the activity or comply with the control plan or permit conditions within 10 calendar days after being notified, the Town may revoke the permit.
- C. Where No Permit Has Been Issued and the landowner or land user fails to cease within 10 calendar days, the Zoning Administrator may request the Town Attorney to obtain a cease and desist order.
- D. The Town Board or the Zoning Board of Appeals may retract a stop-work order or a permit revocation.
- E. 10 Calendar Days After Posting a stop-work order, the Town may issue to the landowner or land user a notice of intent to perform work necessary to comply with the erosion control requirements of this Ordinance. The Town may enter onto the land and commence the required work after 14 calendar days from issuing the notice of intent. The costs of the work performed by the Town, plus interest at the rate authorized by the Town Board, shall be billed to the landowner or land user. In the event a landowner or land user fails to pay the amount due, the Town Clerk shall enter the amount due on the tax rolls and collect it as a special assessment against the property pursuant to Section 66.60(16) of the Wisconsin Statutes.
- F. Any Person Violating any of the erosion control provisions of this Ordinance shall be subject to a forfeiture of not less than \$100 nor more than \$500 together with the costs of prosecution for each offense. Each day a violation continues to exist shall constitute a separate offense.
- G. Compliance with the erosion control provisions of this Ordinance may also be enforced by injunction.

11.107 APPEALS

The Zoning Board of Appeals shall hear and decide appeals where it is alleged that there is an error in any order, decision, or determination made by the Zoning Administrator in administering this Section. Upon appeal, the Board of Appeals may issue variances from the provisions of this Section which are consistent

with the findings required for variances in Section 12.07 of this Ordinance. The Board of Appeals shall use the rules, procedures, duties and powers authorized by law in hearing and deciding appeals and authorizing variances. Any applicant, permittee, landowner, or land user may appeal any order, decision, or determination made by the Zoning Administrator in administering this Section.

11.11 LANDSCAPING

A. Purpose and Characteristics

The intent of this section is to:

1. Protect and enhance the scenic character of the Town and identified scenic and other roads;
2. Improve the natural, environmental and ecological merits of private properties, where appropriate.
3. Establish natural visual buffers which assist to screen views of built structures, as viewed from roads, water bodies, and neighboring properties.
4. Mitigate adverse impacts attributed to stormwater runoff.
5. Provide high quality landscape standards that preserve and augment the existing character of the Town.

B. Landscape Preservation and Installation

1. Recognize that individual lots and conditions will afford distinctive and varied opportunities for landscape treatment. The total area, topography, location and other conditions specific to individual lots will potentially require variances from landscaping requirements. While deviations from landscape requirements may be necessary, the intent of the landscaping purposes and characteristics outlined in Section 11.11 A should be observed.
2. A landscape plan should consider the preservation of existing, desired vegetation. Mature tree species that provide a substantial canopy should be retained if possible.
3. Except for dead, diseased, or nuisance tree species, removal or alteration of existing trees for development of any shoreland lot should not be conducted without first submitting a tree and vegetation inventory.
4. Installation of additional plant materials should augment existing vegetation, and achieve purposes outlined in Section 11.11 A.
5. In addition to the requirements of this Section, all landscape and other construction or land altering activities must also comply with Section 2.14 -Conservancy Regulations of this Ordinance and other applicable requirements of this Ordinance and other town, county, state, and federal ordinances and regulations. In the case of conflicts between ordinances or regulations, the more restrictive shall apply.

C. General Design Criteria

1. Plants shall be spaced to provide optimum growing conditions. The location, dimensions, and spacing of required plantings should be adequate for their proper growth and maintenance, taking into account the sizes of such plantings at maturity and their present and future environmental requirements, such as wind, soil, moisture, and sunlight. Existing healthy and non-invasive species of trees, shrubs, or woodlands should be incorporated in a landscape plan, and contribute toward the quantity requirement.

2. Diversity of vegetation species is recommended, although the selection of a plant palette shall consider new flora that is compatible with the growing and environmental requirements of existing vegetation.
3. Trees or shrubs that are planted immediately adjacent to roadway rights-of-way shall be moderately tolerant of both salt spray and salt absorbed into the soil.
4. Canopy trees that are newly installed shall reach a minimum height and spread of 30 feet at maturity (10 years growth) as determined by the American Association of Nurserymen (AAN) Standards and shall be deciduous. New canopy trees shall have a minimum caliper of 2 inches at planting.
5. Ornamental trees that are newly installed shall reach a typical minimum height of 15 feet at maturity, based on AAN Standards and shall be deciduous. Ornamental trees shall have a distinctive ornamental character such as showy flowers, fruit, habit, foliage, or bark. New ornamental trees shall have a minimum caliper of 1.5 inches.

D. Plant Material Types and Quantities

1. All plants shall be hardy and within the United States Department of Agriculture (USDA) hardiness zone applicable to the Town of West Bend, Wisconsin (Hardiness Zones 5a to 3a).
2. Native or naturalized plant species that provide effective visual screening and benefit wildlife are recommended for consideration in developing a landscape plan. A combination of native and non-native hardy plant species is appropriate.
3. All plants shall meet the minimum standards for health, form, and root condition as outlined in the AAN Standards.
4. Plant quantities should be measured by the following methods:
 - (a) Scenic Buffers. Plant quantities are calculated per every 100 linear feet of property boundary.
 - (b) Street Edge. Plant quantities are calculated per every 100 linear feet of property boundary.
 - (c) Yards (street yard, side yard, rear yard, shore yard). Plant quantities are calculated per every 1,000 square feet of plantable yard area (excludes building footprint, vehicular drives, pedestrian walks, at-grade decks and patios).
 - (d) Parking Lots and Parking Circulation. Plant quantities are calculated per every 1,000 square feet area of parking lots and circulation elements (driveways, alleys, service areas).

E. R-1N and R-1 R Residential Landscape Design Criteria

1. Preservation and visual blending of the existing natural landscape features, including desired and healthy vegetation, shall be a priority in landscape planning.
2. Viewed from the roadway, buffers shall conceal views of houses.
3. Installation of street trees at 40 feet spacing is required along internal streets within the residential development. Street trees may be planted, but are not required, along internal streets at the point, which the street passes through common open space.

4. Scenic Buffer areas shall be planted with the plant quantities and general plant types as indicated in the table below.

Draft for Public Hearing 11-10-09

R-1N and R-1R Scenic Buffer Area Required Plantings	
Area	Existing and New Plantings
Property boundary along a major arterial street around the perimeter of the development (minimum width: 40 feet)	6 canopy trees or 5 evergreens 3 ornamental trees 10 medium to tall shrubs
Property boundary along a minor arterial street around the perimeter of the development (minimum width: 30 feet)	4 canopy trees or 3 evergreens 2 ornamental trees 8 medium to tall shrubs

F. R-1S Shoreland Residential and R-1S/MU Shoreland Residential / Mixed-Use Landscape Design Criteria

1. Plant quantities shall be calculated by measuring the exterior “plantable” area (excluding building footprint, vehicular drives, pedestrian walks, at-grade decks and patios), and applied per each 1,000 square feet of exterior space.
2. A minimum of 50% of the quantity of total vegetation (existing and installed) should be native species recommended by the Wisconsin Department of Natural Resources (DNR).
3. Sufficient plant materials should be used to filter views of built structures along the roadside, between adjoining properties, and adjacent to the shoreline.
4. Planting design concepts should consider the following when implementing a landscape plan:
 - (a) Street yard areas
 - (1) Ensure visual screening of buildings from adjacent roadways through vertical layering of plant materials that include groundcovers, shrubs and trees.
 - (2) Enframe residential structures through planting masses that include native and wildlife-beneficial plant species.
 - (b) Side yard areas
 - (1) Ensure visual screening of buildings or other structures when viewed from neighboring properties or streets through a planting scheme that incorporates evergreen (winter screening) vegetation and

appropriate height of vegetation to minimize visual intrusion of buildings.

(2) Avoid obstruction of lake views from neighboring properties due to landscape installation.

(c) Rear yard areas

Establish vegetative buffer along the rear property line that enframes views to neighboring acreage or adjacent water bodies.

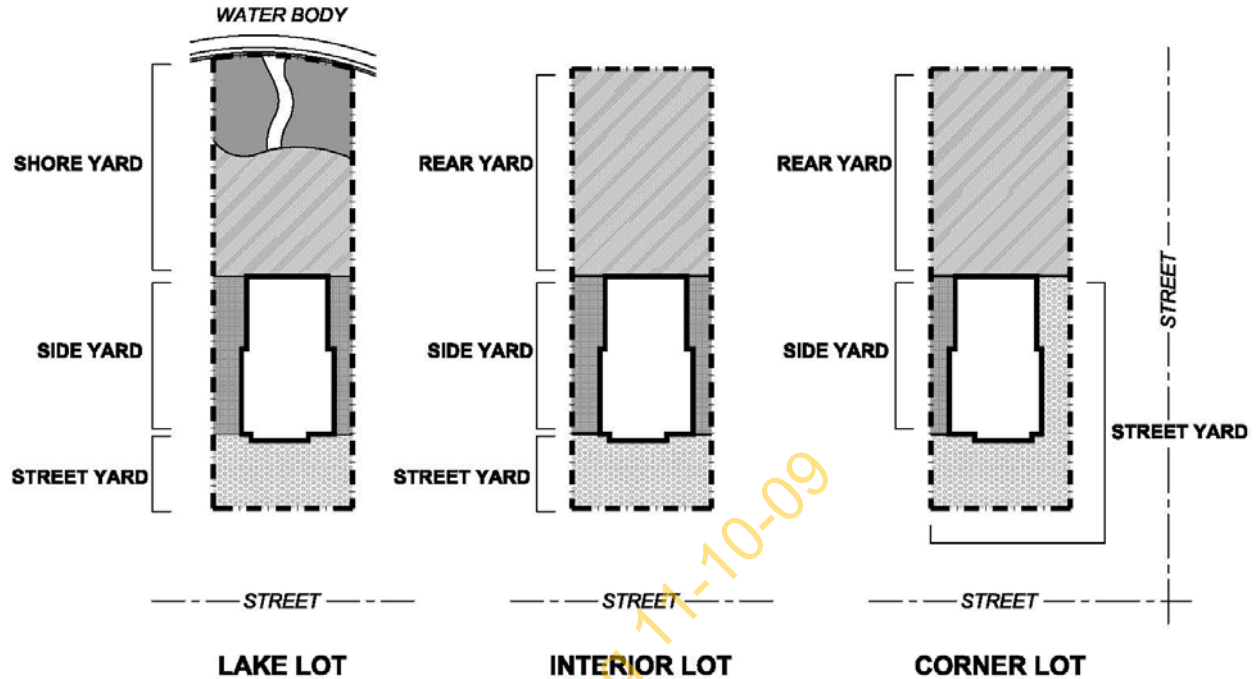
(d) Shore yard areas

(1) Shore yard areas shall support vegetation that preserves the natural appearance of the shoreline, and supports plant materials that augment visual interest of the shore zone. Vertical diversity of plant materials shall be established or preserved, and include canopy layer of trees, a mid-canopy layer of ornamental trees, and a ground layer of shrubs, ferns, forbs and grasses and other broadleaf groundcover plants.

(2) Property owners shall preserve or establish, and maintain, a primary shore yard buffer of native shore yard vegetation in the area that extends a minimum of 35 feet inland from the ordinary high water mark of navigable waters under the following circumstances:

(a) When a new principal structure is being constructed;

(b) When primary buffer restoration or maintenance is selected to meet the requirements of applicable county or state or federal requirements for any reconstruction, expansion, structural alteration, replacement, or relocation of any proposed structure that does not meet the minimum setback standards.



Yard Location Diagram

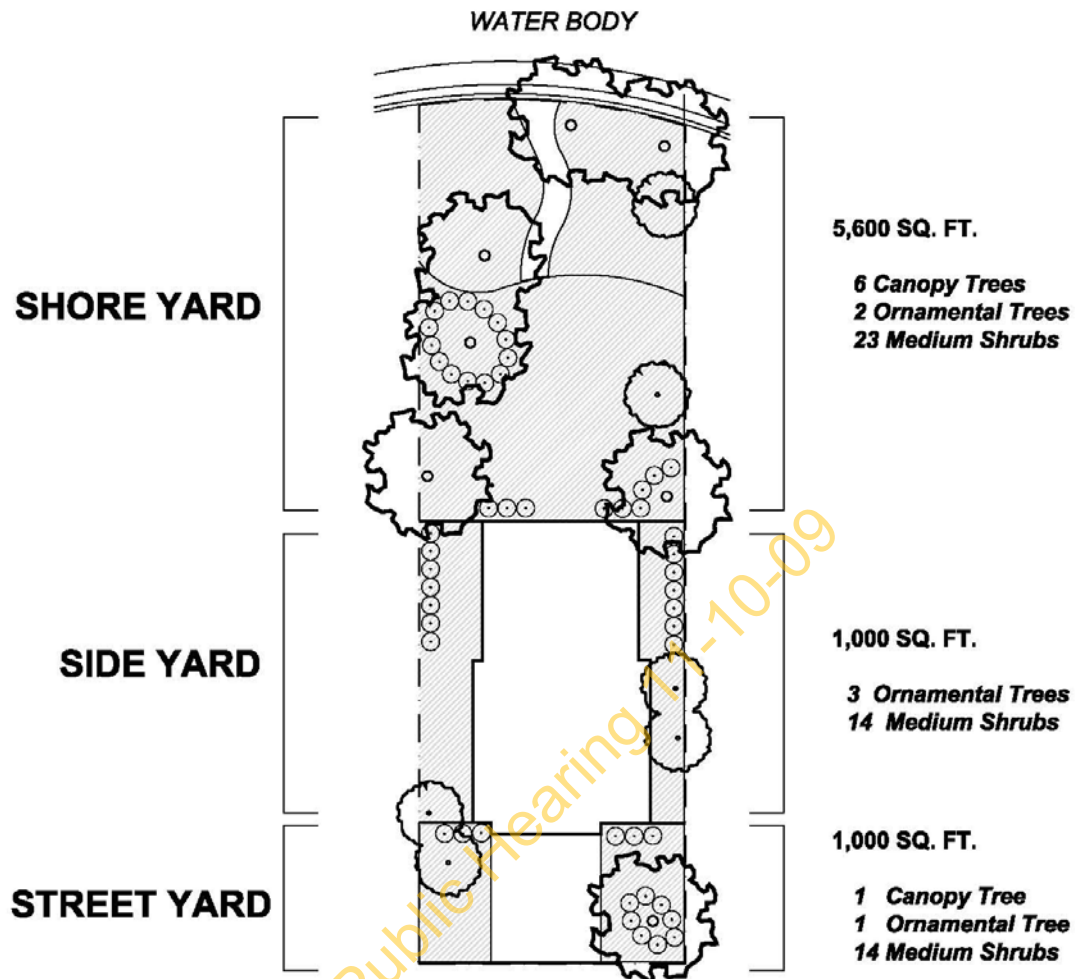
- (3) Vegetation should not be removed from the primary shore yard buffer except in access and viewing corridors. The removal of exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation posing an imminent safety hazard is allowed.
- (4) A cleared or semi-cleared viewing corridor within the shore yard buffer should adhere to the following dimensions:
 - (a) When a new principal structure is being constructed, or when required under *applicable county or state or federal requirements*, lots 200 feet or less wide at the ordinary high water mark may have a total width of an access and viewing corridor or corridors that may not exceed 30% of the lot's width, to a maximum of 40 feet, at the Ordinary High Water Mark.
 - (b) When a new principal structure is being constructed, or when required under *applicable county or state or federal requirements*, lots which are more than 200 feet wide at the ordinary high water mark are allowed a total width of an access and viewing corridor or corridors that may not exceed 20% of the lot's width, to a maximum of 100 feet, of the lot's width at the Ordinary High Water Mark.
- (5) Retain and consider re-establishing aquatic vegetation along shoreline areas. Property owners shall avoid planting nonnative plant species in the shore yard buffer area that may spread to nearby wetlands or waterways and ensure that invasive and nuisance flora is controlled within the shore buffer zone.

- (6) Ecological merits of shoreland areas shall be enhanced through the establishment of non-turf vegetation by establishing a diverse vertical structure of plantings that considers both understory (forbes, perennials, shrubs, ornamental trees) and overstory (canopy trees) vegetation.
- (7) Water quality shall be protected from pollutants associated with development and pervious surfaces by establishing non-turf buffer zones along the shoreline which serve to reduce stormwater runoff, and protect the shoreline from erosion.
5. When deemed necessary by the Zoning Administrator or Plan Commission, landscape plans should be provided for building and site work that requires a Zoning Permit and for other site development work that disturbs over 500 square feet of site area.
6. All landscape and other land altering activities in the shoreland, wetland, or floodplain areas may also be regulated by additional county, state and federal ordinances and/or requirements. In the case of conflicts between ordinances or regulations, the more restrictive requirements shall apply.

R-1S and R-1S/MU Required Plantings	
Area	Existing and New Plantings
Street Yard	<p>1 canopy trees or 1 evergreen</p> <p>1 ornamental tree</p> <p>7 medium to tall shrubs</p> <ul style="list-style-type: none"> ▪ Vegetation shall be arranged in masses to filter views from the road edge. ▪ Dispersed, patterns of landscape planting that provide minimal visual buffering shall be discouraged ▪ New understory vegetation that augments existing mature deciduous trees shall be considered in the development of a landscape plan ▪ Front corners of parcel shall be anchored with vegetation, if appropriate
Side Yard	<p>1 canopy tree or 1 evergreen or 2 ornamental trees</p> <p>4 medium to tall shrubs</p> <ul style="list-style-type: none"> ▪ Vegetation shall provide visual buffering of neighboring building structures ▪ Location of vegetation shall not obstruct lake views from neighboring properties to the greatest extent possible ▪ Hedgerows or planting beds can be installed in formal or informal arrangements.

Rear Yard	<p>1 canopy tree or 2 evergreens</p> <p>1 ornamental tree</p> <p>4 medium to tall shrubs</p> <ul style="list-style-type: none"> ▪ Groundcovers and understory plantings shall be established adjacent to buildings to provide a transition from the building face to exterior ground plane ▪ Ornamental trees shall be located in areas that maximize visual buffering of buildings from the lakeside, while providing for open views to the lake ▪ Mowed and maintained turf areas shall be minimized, while respecting the need for private recreational uses or exposed lawn areas.
Shore Yard and Water's Edge	<p>1 canopy tree</p> <p>0.5 ornamental tree</p> <p>4 medium to tall shrubs</p> <ul style="list-style-type: none"> ▪ Retain a Non-mowed area of at least 35-feet wide [see Section 11.11 (F)] adjacent to shoreline that supports clump grasses, perennials or ground cover of low-growing vegetation ▪ Groundcovers and understory plantings shall be established adjacent to buildings to provide a transition from the building face to exterior ground plane ▪ Retain or establish a buffer zone of natural vegetation along shoreline that endeavors to support a natural, wooded setting ▪ Utilize vegetation to enframe views of the lake from upland private residential structures ▪ Implement erosion and stormwater controls through topographic depressions and groundcovers or shrubcovers that promote infiltration near the shoreline.

Note: If restricted site dimensions do not allow the required number of plantings, the requirements may be modified with the approval of the Zoning Administrator or Plan Commission. Any modified landscape standard shall support the purpose and intent of the landscape requirements to the greatest extent possible.



R-1S Lot Planting Example

Example of required plant quantities within a 60' x 200' residential lot (R-1S)

G. B-1, B-2, M-1 and P-1 Landscape Design Criteria

1. Properties designated as B-1, B-2, M-1 and P-1 shall comply with landscape regulations that promote visual buffering from the roadway (street edge) and neighboring parcels.
2. Side yards which include the spaces between buildings shall be augmented with landscape features that encourage public use of the space.
3. Site design and landscaping of parking lots shall adhere to the following requirements:
 - (a) Parking lots shall be located along the side or back of the building. A 60 feet wide bay of parking is allowed between a landscape buffer and the building if it is parallel to the road.
 - (b) Parking lots should have strong edges to define them as spaces. This can be achieved with buildings, landscaping, fencing, light fixtures, or combinations of these elements.
 - (c) The geometry of parking lots should be orthogonal and parallel to major buildings.
 - (d) The parking lot shall be designed as a series of parking areas each separated by significant landscape features. Each individual parking area cannot exceed 200 feet in width (there is no limitation for length).
 - (e) Areas to accommodate landscape features should be configured in a manner that establishes high quality visual impacts. Create significant landscape screening around the perimeter of parking areas using a combination of trees, lower plantings and fencing.
 - (f) In parking lots with more than 20 spaces, there shall be 1 planting island for every 10 parking spaces. Islands should be a minimum 9 feet wide and be heavily planted with trees and lower plantings.
 - (g) Landscape areas less than 5,000 sq. ft. should have simple geometric forms such as rectangles, ovals, and semi-circles. Strive to achieve a physical connection to neighboring landscapes or natural areas.
 - (h) The primary vegetation shall consist of a tree canopy that helps reduce heat capture by asphalt parking surfaces.

B-1, B-2, M-1 and P-1 Required Plantings	
Area	Existing and New Plantings
Street Edge	<p>4 trees for each 100 lineal feet of frontage plus one of the following minimum:</p> <ul style="list-style-type: none"> ▪ masonry or split-rail fence minimum of 48 inches high with masonry posts at least 20 feet on center ▪ ornamental metal fence at least 48 inches high with a coniferous hedge at least 36 inches high planted on one side of the fence ▪ existing shrubs if they are continuous and at least 48 inches high <p>or</p> <ul style="list-style-type: none"> ▪ an additional row of trees
Side Yard (including area between buildings)	<ul style="list-style-type: none"> ▪ landscaping shall connect to existing landscape in and around the site and be of similar plant material ▪ 6 trees for each 1,000 square feet of space grouped together when possible or 4 trees and 4 medium to tall shrubs for each 1,000 square feet of space ▪ landscape area should include seating and pedestrian paths to encourage the use of the space
Parking Lot	<p>Perimeter landscape features shall be no less than 15 feet wide and 1,500 square feet in total area</p> <p>for every 1,000 square feet of space required plantings shall consist of one of the following minimum:</p> <ul style="list-style-type: none"> • 5 canopy trees and 3 ornamental trees • 7 evergreen trees • 4 canopy trees, 2 ornamental trees and 5 shrubs <p>Parking lot islands shall be no less than 9 feet wide</p> <p>For every island, required plantings shall consist of the following minimum:</p> <ul style="list-style-type: none"> • 1 canopy tree and 2 ornamental trees • 8 small to medium shrubs • sufficient perennials to cover ground surface of island

*Existing plantings in combination with new plantings shall equal the requirement.

H. Suggested Plant Species

Suggested Plant Species List	
(at least 3 different tree species and 3 different shrub species shall be used)	
TREES	
Large Deciduous Trees	Evergreen Trees
Basswood (<i>Tilia Americana</i>)	American Arborvitae (<i>Thuja occidentalis</i>)*
Bur Oak (<i>Quercus macrocarpa</i>)	Austrian Pine (<i>Pinus nigra</i>)
Common Hackberry (<i>Celtis occidentalis</i>) 'Prairie Pride'	Canadian Hemlock (<i>Tsuga Canadensis</i>)*
Common Honeylocust (<i>Gleditsia triacanthos</i>)	Eastern Red Cedar (<i>Juniperus virginiani</i>)
Red Maple (<i>Acer rubrum</i>)	Eastern White Pine (<i>Pinus strobus</i>)*
Red Oak (<i>Quercus rubra</i>)	Techny American Arborvitae (<i>Thuja occidentalis</i> 'Techny')
Sugar Maple (<i>Acer saccharum</i>)	White Spruce (<i>Picea glauca</i>)*
Swamp White Oak (<i>Quercus bicolor</i>)	
Ornamental Deciduous Trees	
River Birch (<i>Betula nigra</i>)	
European Alder (<i>Alnus glutinosa</i>)	
Laurel Willow (<i>Salix pentandra</i>)	
American Hornbeam (<i>Carpinus caroliniana</i>)	
Hawthorns (<i>Crataegus species</i>)	
SHRUBS	
Tall Deciduous Shrubs	Medium Deciduous Shrubs
American Cranberrybush Viburnum (<i>Viburnum trilobum</i>)	American Filbert (<i>Corylus Americana</i>)*
Arrowwood Viburnum (<i>Viburnum dentatum</i>)	Red Chokeberry (<i>Aronia arbutifolia</i>)
Blackhaw Viburnum (<i>Viburnum prunifolium</i>)	Winterberry (<i>Ilex verticillata</i>)*
Common Witchhazel (<i>Hamamelis virginiani</i>)*	Withrod Viburnum (<i>Viburnum cassinoides</i>)*

Eastern Ninebark (<i>Physocarpus opulifolius</i>)*	Evergreen Shrubs
Eastern Wahoo (<i>Euonymus atropurpurea</i>)*	Pfitzer Juniper (<i>Juniper chinensis</i> 'Pfitzerana')
Eastern White Pine (<i>Pinus strobus</i>)	Oldfield Common Juniper (<i>Junipers communis depressa</i>)*
Nannyberry Viburnum (<i>Viburnum lentago</i>)*	Creeping Juniper (<i>Juniper horizontalis</i>)*
Allegheny Serviceberry (<i>Amelanchier laevis</i>)	Woodward Globe Arborvitae (<i>Thuja occidentalis</i> 'Woodwardii')

* Native Vegetation Species

Suggested Plant Species List, Continued (at least 3 different tree species and 3 different shrub species shall be used)	
SHRUBS	
Low Deciduous Shrubs	
Alpine Currant (<i>Ribes alpinum</i>)	
Black Chokeberry (<i>Aronia melanocarpa</i>)*	
Dwarf European Cranberrybush (<i>Viburnum opulus</i> 'Nanum')	
Mapleleaf Viburnum (<i>Viburnum acerifolium</i>)*	
Running Serviceberry (<i>Amelanchier stolonifera</i>)*	

* Native Vegetation Species

SECTION 12.00 ZONING BOARD OF APPEALS**12.01 ESTABLISHMENT**

There is hereby established a Zoning Board of Appeals for the Town of West Bend for the purpose of hearing appeals and applications, and for granting variances and exceptions to the provisions of this Zoning Ordinance.

12.02 MEMBERSHIP

The Zoning Board of Appeals shall consist of 5 members appointed by the Town Chairman and confirmed by the Town Board.

- A. Terms shall be for staggered three-year periods.
- B. Chairman shall be designated by the Town Chairman
- C. Two Alternate Members shall be appointed by the Town Board Chairman for a term of 3 years and shall act only when a regular member is absent or refuses to vote because of interest.
- D. Secretary shall be the Town Zoning Secretary.
- E. Zoning Administrator/Building Inspector shall attend all meetings for the purpose of providing technical assistance when requested by the Board.
- F. Official Oaths shall be taken by all members in accordance with Section 19.01 of the Wisconsin Statutes within 10 days of receiving notice of their appointment.
- G. Vacancies shall be filled for the unexpired term in the same manner as appointments for a full term.

12.03 ORGANIZATION

The Zoning Board of Appeals shall organize and utilize rules of procedures for its own government as hereby set forth.

- A. Meetings shall be held at the call of the chairman who shall establish the meeting order of business.
- B. Meetings shall comply with the requirements for open meetings in accordance with Section 19.83, 19.84, and 19.85 of the Wisconsin Statutes.
- C. Minutes of the proceedings and a record of all actions shall be kept by the secretary, or other designated person, showing the vote of each member upon each question, the reasons for the Board's determination, and its finding of facts. These records shall be immediately filed in the office of the Board and shall be a public record.
- D. If a quorum is present, the concurring vote of a majority of the members present shall be necessary to correct an error, grant a variance, make an interpretation, and permit a substituted use.

12.04 POWERS

The Zoning Board of Appeals shall have the following powers:

- A. Errors: To hear and decide appeals when it is alleged there is error in any order, requirement decision, or determination made by the Zoning Administrator/Building Inspector.
- B. Variances: To hear and grant appeals for variances as will not be contrary to the public interest, when, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. The spirit and purposes of this Ordinance shall be observed and the public safety, welfare, and justice secured. Use variances shall not be granted.
- C. Interpretations: To hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts after the Town Plan Commission has made a review and recommendation.
- D. Substitutions: To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Town Plan Commission has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
- E. Permits: The Board may reverse, affirm wholly, or partly modify the requirements appealed from, and may issue or direct the issue of a permit.
- F. Assistance: The Board may request assistance from other town officers, departments, commissions, and boards.
- G. Oaths: The chairman may administer oaths and compel the attendance of witnesses.

12.05 APPEALS AND APPLICATIONS

Appeals of the decision of the Zoning Administrator/Building Inspector concerning the literal enforcement of this Ordinance may be made by any person aggrieved or by any officer, department, board, or bureau of the Town. Such appeals shall be filed with the Zoning Administrator within 30 days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Zoning Administrator. Such appeals and applications shall include the following:

- A. Name and Address of the appellant or applicant and all abutting and opposite property owners of record.
- B. Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 2.03 for a Building Permit.
- C. Additional Information required by the Town Board, Plan Commission, Town Engineer, Zoning Board of Appeals, Zoning Secretary, or Zoning Administrator/Building Inspector.

12.06 HEARINGS

The Zoning Board of Appeals shall fix a reasonable time and place for the hearing, shall give public notice thereof as specified in Section 14.00 of this Ordinance, and shall give due notice to the parties in interest, the Zoning Administrator/Building Inspector, and the Town Board. At the hearing the appellant may appear in person, by agent, or by attorney.

12.07 FINDINGS

No variance to the provisions of this Ordinance shall be granted by the Board unless it finds by the preponderance of evidence presented that all the following facts and conditions exist and so indicates such in the minutes of its proceedings.

- A. **Preservation of Intent**. No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use or Conditional Use in that particular district.
- B. **Exceptional Circumstances**. There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties of uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
- C. **Economic Hardship and Self-Imposed Hardship Not Grounds for Variance**. No variance shall be granted solely on the basis of economic gain or loss. Self-imposed hardships shall not be considered as grounds for the granting of a variance.
- D. **Preservation of Property Rights**. The variance must be necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
- E. **Absence of Detriment**. No variance shall be granted that will create substantial detriment to adjacent property and will materially impair or be contrary to the purpose and spirit of the Zoning Ordinance or the public interest.

12.08 DECISION

The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the final hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant, Zoning Administrator/Building Inspector, Plan Commission, and Town Board.

- A. **Conditions may be placed** upon any building permit ordered or authorized by this Board.
- B. **Variances, Substitutions, or Use Permits** granted by the Board shall expire within 6 months unless substantial work has commenced pursuant to such grant.

12.09 REVIEW BY COURT OF RECORD

Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within 30 days after the filing of the decision in the office of the Zoning Board of Appeals.

SECTION 13.00 CHANGES AND AMENDMENTS**13.01 AUTHORITY**

Whenever the public necessity, convenience, general welfare, or good zoning practice require, the Town Board may, by Ordinance, change the district boundaries or amend, change, or supplement the regulations established by this Ordinance or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the Town Plan Commission.

13.02 INITIATION

A change or amendment may be initiated by the Town Board or Town Plan Commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.

13.03 PETITIONS

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Town Clerk, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use, and have attached the following:

- A. Plot Plan drawn to a scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
- B. Owners Names and Addresses of all properties lying within 200 feet of the area proposed to be rezoned.
- C. Additional Information required by the Town Plan Commission or Town Board.

13.04 REVIEW AND RECOMMENDATIONS

The Town Plan Commission shall review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified and granted, or denied.

13.05 HEARINGS

The Town Board shall hold a public hearing upon each petition giving public notice thereof as specified in Section 14.00 of this Ordinance, listing the time, place, and the changes of amendments proposed. The Town Board shall also give at least 10 days' prior written notice to the clerk of any municipality within 1,000 feet of any land to be affected by the proposed change or amendment.

13.06 TOWN BOARD'S ACTION

As soon as possible after such public hearing, and after careful consideration of the Town Plan Commission's recommendations, the Town Board shall act on the petition either approving, modifying and approving, or disapproving of the same.

13.07 PROTEST

In the event of a protest against such district change or amendment to the regulations of this Ordinance, duly signed and acknowledged by the owners of 20 percent or more of the areas of the land included in such proposed change, by the owners of 20 percent or more of the land immediately adjacent extending 100 feet there from, or by the owners of

20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such change or amendment shall not become effective except by the favorable vote of 3/4 of the full Town Board membership.

Draft for Public Hearing 11-10-09

SECTION 14.00 PUBLIC HEARINGS

14.01 PUBLIC HEARINGS

Notice of any public hearing which the Town Board, Plan Commission, or Zoning Board of Appeals is required to hold under the terms of this Ordinance shall specify the date, time and place of hearing, and the matter to be presented at the hearing. Pursuant to Chapter 985 of the Wisconsin Statutes, the notice shall be published as a Class 2 notice, to-wit:

The notice of public hearing shall be published in a newspaper of general circulation in the Town of West Bend at least once each week for 2 consecutive weeks, the last publication of which shall be at least 1 week before the public hearing.

Notice of the public hearing shall be mailed to all parties-in-interest at least 10 days before the hearing. Parties-in-interest shall be defined as the petitioner, the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the petition and the owners of all lands included in the petition and all lands lying within 200 feet of lands included in the petition. The failure to give any notice to any property owner shall not invalidate the action taken by one of the aforementioned bodies.

Draft for Public Hearing 11-10-09

SECTION 15.00 DEFINITIONS**15.01 GENERAL DEFINITIONS**

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

15.02 SPECIFIC WORDS AND PHRASES**Accessory Structure**

A structure which:

1. Is or will be subordinate to and serves a principal structure, land, or water;
2. Is or will be located on the same lot or parcel;
3. Is detached from the principal structure;
4. Is not used as living quarters, nor has a permanent well or sanitary connection.

Accessory Use

A use which:

1. Is or will be subordinate to and serves a principal use;
2. Is or will be located on the same lot or parcel as the principal use.

Alley

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

Assembly

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

Base Density

A total permissible number of residential units that may be built on any given parcel of land to establish the number of units the land can reasonably accommodate. Providing a base density, as opposed to requiring a minimum lot size, allows for flexibility on the part of the landowner in determining the distribution of residential units on the parcel while protecting significant environmental features like open space.

Basement

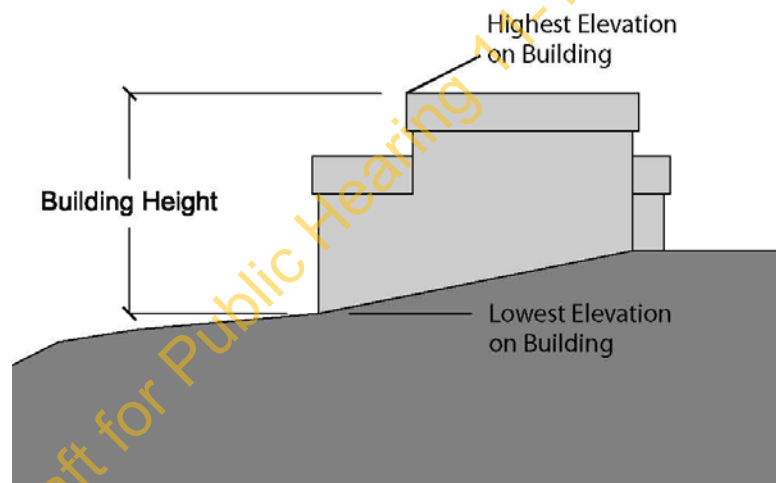
That portion of any structure which is below grade, or which is partly below and partly above grade but so located that the vertical distance from the grade to the floor is greater than the vertical distance from the grade to the ceiling.

Building

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

Building Height

The vertical distance measured from the lowest elevation of the finished lot grade along the street yard, side yard, or shore yard face of the structure to the highest point of the roof. The exposed portion of the basement shall be included in the height limitation on the building facades where it is visible. The precedent height shall be determined by scale of the building blueprints submitted for review.



Building Height Diagram

Clothing Stores

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

Common Open Space

Any land area that is designated as "Common Open Space" through deed restrictions in perpetuity and held in trust by a homeowners association, the Town or other designated conservation organization.

Types of Common Open Space include but are not limited to the following:

COMMUNITY GARDEN AND GREENHOUSE are areas for use by residents and others (not immediately adjacent to residential lots) that are planned and managed for growing vegetable and flowers. There should be pedestrian and vehicular access to the area as well as small amounts of visitor parking (this may include street parking).

COUNTRYSIDE VIEWS are areas that facilitate public views of common open space (and other features that comprise the countryside character of West Bend) from existing arterials and collector roads adjacent to the proposed development. The view shed area should border a public right-of-way which primarily carries traffic generated by the general public rather than only vehicles associated with the immediate land use.

CULTIVATED FIELDS AND PASTURES are agricultural areas set aside for farming with a long-term management plan for continuous cultivation or use as pasture land for livestock.

ENVIRONMENTAL PRESERVES are areas that preserve environmental features that enhance the health, environmental quality, social value, and natural beauty of the community. Preserves should include the environmental corridors (primary, secondary, and isolated natural resource areas), lakes and streams, wetlands, drainage ways, floodplains, habitat areas, wildlife habitats, woodlands, prairies, steep slopes, as identified by SEWRPC or other recognized surveys. These areas may also include public trail connections to view and, if feasible, enter the preserve.

ENVIRONMENTAL RESTORATIONS are natural areas and landscapes designed for aesthetic impact to display different forms of plant materials using a traditional aesthetic approach of formal or picturesque gardening, botanical display, or environmental restoration. These landscapes are also designed to improve the ecological condition of the natural environment (for example, this may include restored prairies or wildlife habitats). These areas shall be designed by a recognized landscape architect or ecologist with substantial experience and professional credentials in landscape architecture, garden design, ecology or similarly appropriate field. These areas may include structures for aesthetic purposes as well as environmental management. These areas should also include public trail connections to view and, if feasible, enter the preserve.

EQUESTRIAN COMMON OPEN SPACES AND FEATURES are common open spaces, and related features, intended for equestrian use. These spaces are an essential and traditional component of the countryside character of the Town and should be maintained and expanded. These spaces include ranches, corrals, trails, fences, barns and stables, signage, and related facilities. Equestrian facilities should be connected to the overall equestrian trail system within the Town. When this is not feasible, plans should demonstrate how such facilities can be effectively integrated with the overall pattern of equestrian use within the community.

FORESTATION AREAS are agricultural areas planted for commercial tree-growing businesses with long term management plans for continuous operation. The management plan for forestation areas, especially those used for commercial purposes, must demonstrate that it will be harvested in a manner that retains the aesthetic value of the plant materials as an amenity for surrounding property owners and members of the general public.

GATEWAY FEATURES are specially designed and landscaped areas at the entrances to neighborhoods, districts, boulevards, and residential subareas. They should be located at primary entries to developments or neighborhoods

from Town-wide arterials. They should contain significant visual features, built or natural. These may include trees, fences, ornamental landscapes, unique structures, or public art.

LANDSCAPED BOULEVARDS are the landscaped central medians that provide an aesthetic amenity and informal gathering place for residential neighborhoods. Boulevards shall be planted with rhythmic rows of trees along each side of the median and along the outer side of the public right-of-way. The edges of the median may include continuous hedges or ornamental fences that border the curb. The outer sides of the street may include sidewalks. The central median shall consist primarily of grass areas suitable for walking and informal uses.

LANDSCAPED CUL-DE-SAC ISLANDS are the landscaped central islands in cul-de-sac bulbs that provide an aesthetic amenity and informal gathering place for residential neighborhoods. Island shall be planted with trees, shrubs and perennial plantings to create a visual focus for the neighborhood. A central gathering space should be created within the island to allow gatherings by residents. The edges of the island may include continuous hedges or ornamental fences that border the curb to help enclose the space.

NEIGHBORHOOD PARKS AND SQUARES are areas that afford opportunities for passive and/or active enjoyment of outdoor areas by residents and visitors both as individuals, informal groups, and organized groups. Typical activities include picnicking, strolling, sitting, private contemplation, conversing with friends and neighbors, child play, skating, informal sports, walking, jogging, and organized sports. The park shall be a public or semi-public place as defined above. Parks and squares shall be located within easy access of public rights-of-way, especially those with higher traffic volumes relative to the surrounding street system. The form shall be a simple shape (such as a square, rectangle, circle, ellipse, crescent, triangle, or trapezoid). Parks and squares shall be surrounded by a public right-of-way. The right-of-way should serve vehicles and include a sidewalk or other pedestrian walkway. Where possible, there should be on street parking available to the public along the edge of the park or square. The edge of the park or square must include a continuous row of trees, ornamental fence, or combination of those elements. There shall be clearly marked points of entry and gateways. The interior of the park may include a variety of features for passive enjoyment or active recreation. The ground may be grass, pavement, or other plant materials. There should be a clear understanding of whether or not the park or square will be owned by a public entity and, if not, the circumstances under which ownership of the park or square might be transferred to a public entity.

ORCHARDS are agricultural areas planted as orchards with long term management plans for continuous operation.

ORNAMENTAL AND DISPLAY GARDENS are landscapes designed for aesthetic impact to display different forms of plant materials using a traditional aesthetic approach of formal or picturesque gardening, botanical display, or environmental restoration. These landscapes are also designed to improve the ecological condition of the natural environment (for example, this may include restored prairies or wildlife habitats). These areas should be designed by a recognized landscape architect or ecologist with substantial experience and professional credentials in landscape architecture, garden design, ecology or similarly appropriate field. These areas may include structures for aesthetic purposes as well as environmental management.

PARKWAY LANDSCAPES are heavily landscaped areas along existing arterials. Parkways should include a double row of canopy shade trees planted in a rhythmic pattern with a walkway or bicycle path located between

the rows. The parkway or edge should not include berms.

PLAY AREAS are places with play equipment for children to play informally that should be located in parks and squares. Play areas shall have access from a trail or sidewalk and shall be connected to trail systems entering the park. Play areas should be sited within a small space or along the edge of a space and should have a clearly defined perimeter with fencing or hedges.

SCENIC DRIVES are single-loaded vehicular rights-of-way which provide an open view of common open space. A pedestrian walkway must be included along at least one edge of the scenic drive. This may be a sidewalk, side path, or trail. The common open space area shall be at least sufficiently deep to provide a view of natural features rather than built areas.

TRADITIONAL FARMSTEADS are structures that reflect the agricultural and rural history of the Town, including farmhouses, barns, stables, and a variety of related facilities and common open space. Many of these, while not qualifying as historic landmarks using strict national or state standards, are still part of the cultural and visual history of the community. They provide an essential part of the character of the community and should be preserved. In general, such structures and facilities created prior to 1950 shall be considered as a traditional farmstead. Those components of the farmstead that are to be preserved should be documented by a local historic society or by a person with credentials in historic preservation. The proposed inclusion of the traditional farmstead must state what components of the farmstead will be preserved. A study of the historic properties of the Town of West Bend is available for reference.

TRAILS AND WALKWAYS promote broad social use of a linear system of paths for walking, horseback riding, or bicycling that connect trail users to rights-of-way and other public or semi-public places. These should be determined by the context of circulation, access points, and other common open space components that should be linked together. Trails should be located along the edge of other common open space or public rights-of-way. Trails should be physically separated from side or rear lot lines (approximately 25 feet). Trails shall be a continuous path and should link to all existing and proposed trails and rights-of-way that abut the perimeter of the development. Trails should be constructed with suitable materials for long term operation and maintenance. The suitability of the materials will be determined by the Town. There should be a clear understanding of whether or not the trail system will be owned by a public entity and, if not, the circumstance under which public access is allowed.

Conditional Uses

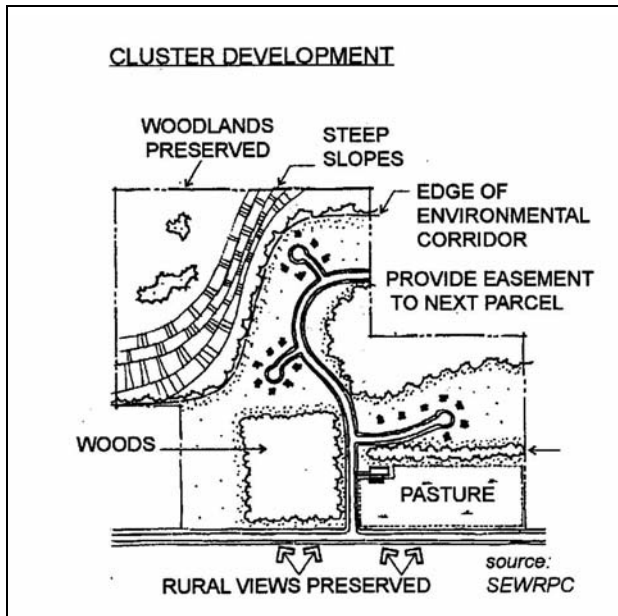
Uses of a special nature as to make impractical their predetermination as a principal use in a district.

Development

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

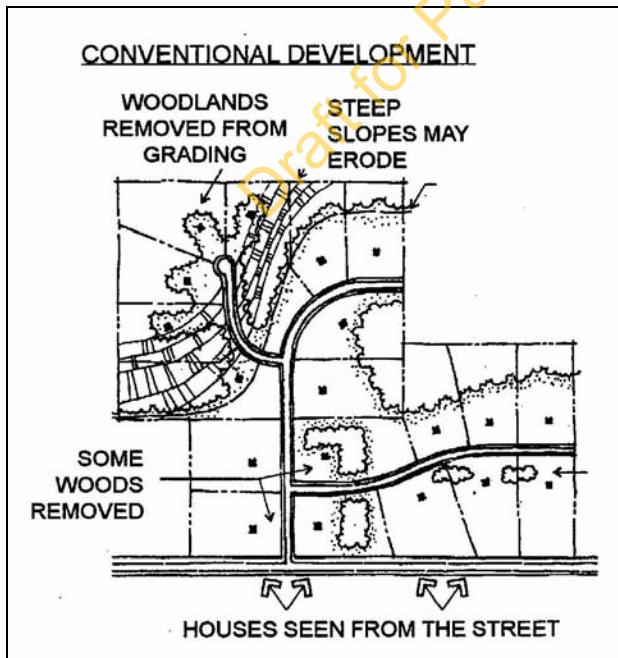
Development, Conservation

A housing development in a rural area that is characterized by compact lots, clustered home sites and common open space, and where the natural features of land are preserved and enhanced to the greatest extent possible. This type of development is sometimes referred to as a Cluster Development



Development Conventional

A housing development that subdivides an entire parcel of land into private lots and does not contain significant common open space.



Developer's Agreement

An agreement by which the Town and the developer agree in reasonable detail as to all of those matters to which the provisions of this Ordinance apply and which does not come into effect unless and until an irrevocable letter of credit or other appropriate surety has been issued to the Town.

District

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

Drive-in Restaurant

An establishment used for the sale, dispensing or serving of food, refreshments, or beverages in or on disposable plates and cups; including those establishments where customers may serve themselves and may eat and drink the food, refreshments, and beverages on or off the premises.

Dwelling

A building or portion thereof, used exclusively for residential occupancy, including single-family, two-family and multi-family dwellings, but not including hotels, motels, lodging houses, boardinghouses, tents, cabins, or mobile homes.

Dwelling Bi-Level

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

Dwelling, Multi-Family

A building or portion thereof used for occupancy by 3 or more families living independently of each other.

Dwelling, Single-Family

A dwelling consisting of 1 dwelling unit designed for, converted to, and/or occupied by 1 family and not attached to another dwelling unit.

Dwelling, Two-Family

A detached building used for residential occupancy by 2 families living independently of each other.

Dwelling Unit

Consists of 1 or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or used as living quarters for 1 family or household.

Environmental Conservancy (EC)

Areas designated (EC) in the Cooperative Boundary Plan Between the City of West Bend and the Town of West Bend, Washington County, Wisconsin (2001) as Environmental Conservancy lands. For the purposes of this Ordinance these areas are zoned, C-2 Conservancy Overlay District

Environmental Conservancy District Areas

This area is defined as those lands designated and mapped by the Southeast Wisconsin Regional Planning Commission (SEWRPC) as either; Primary Environmental Corridor, Secondary Environmental Corridor, or Isolated Natural Resource Area and lands held in conservation by non-profit organizations. Approximate locations of the Environmental Conservancy District areas are shown on the Town's Land Use Plan map in the adopted Town of West Bend Comprehensive Plan.

Essential Services

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

Family

Any number of persons related by blood, adoption, or marriage living together in 1 dwelling unit, or 4 or fewer persons not so related, living together in 1 dwelling unit.

Frontage

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

Garage, Private

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

Garage, Public or Commercial

Any garage other than a private garage.

Gift Stores

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

Home Occupation

Any occupation for gain or support conducted entirely within buildings by resident occupants which is customarily incidental to the principal use of the premises, does not exceed 25 percent of the area of any floor, and uses only household equipment, and for which no stock in trade is kept or sold except that made on the premises. A home occupation includes uses such as baby sitting, millinery, dressmaking, canning, laundering, and crafts, but does not include the display of any goods nor such occupations or uses as barbering, beauty shops, dance schools, real estate brokerage, or photographic studios.

Impervious Surface

Any artificial or natural surface which does not allow the entrance or passage of water or sediment into the ground surface. These areas seal the ground surface from infiltration of water into the subsurface and prevent recharge of the ground water and increase the amount of stormwater runoff. Runoff from impervious surfaces tends to increase the potential for flooding, and carries sediment and pollutants that are detrimental to the quality of surface waters. New developments typically increase the amount of impervious surface. It is important to manage and minimize the amount of impervious surface in new and existing developments to help protect the surface waters and help recharge natural ground water. Impervious surfaces include, but are not limited to buildings and roof areas, structures, concrete or asphalt surfaces, gravel or traffic bond surfaces, decks with no spaces in between the decking, and bricks or pavers with no spacing between, which are placed on traffic bond.

Impervious Surface Area

That total area of a lot which is covered with an Impervious Surface as indicated in this Ordinance.

Irrevocable Letter of Credit

An agreement, entered into by a bank, savings and loan, or other financial institution which is authorized to do business in the State of Wisconsin and which has a financial standing acceptable to the Town of West Bend, and which is approved, as to form, by the Town Attorney.

Living Area

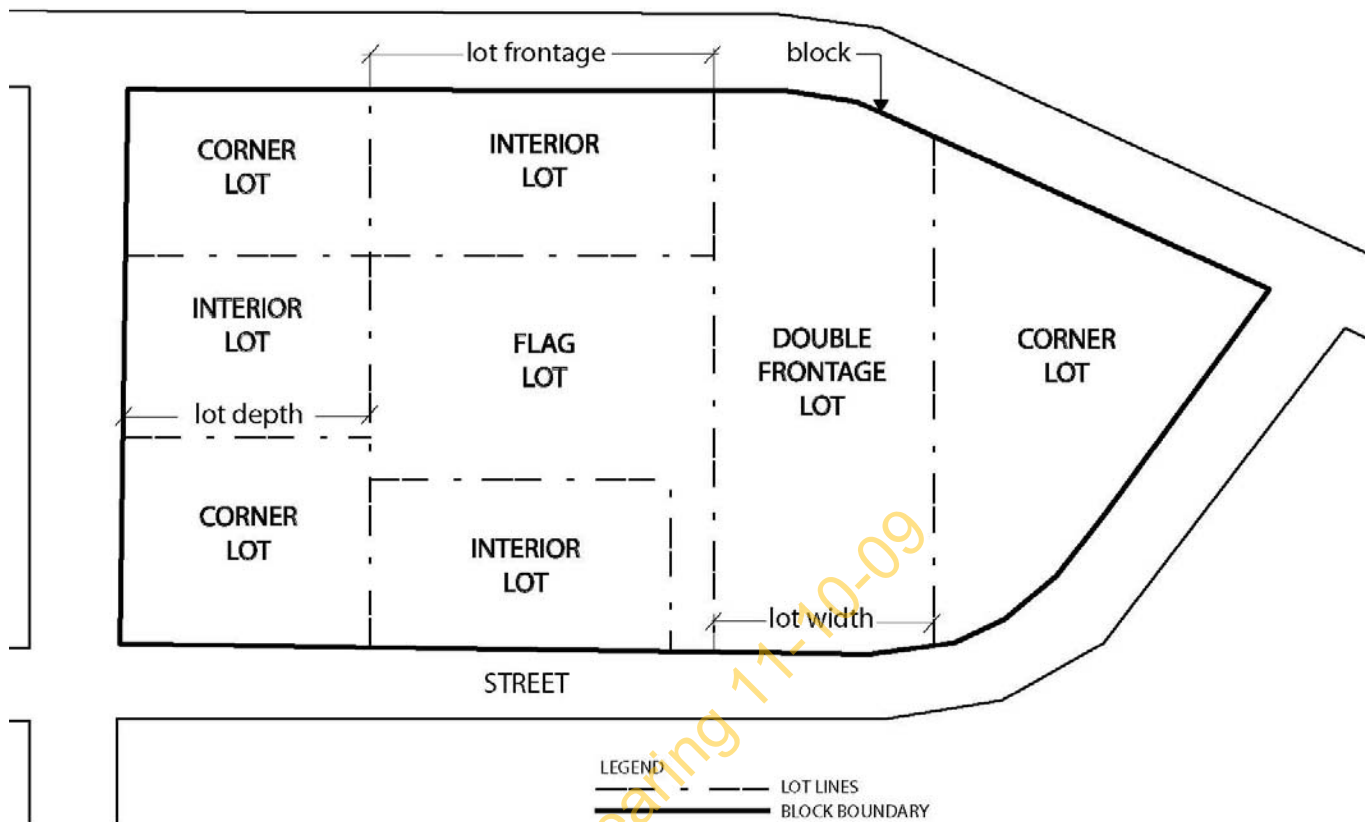
The total area bounded by the exterior walls of a building at the floor levels, but not including basement, utility rooms, garages, porches, breezeways, and unfinished attics.

Loading Area

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

Lot

For the purpose of this Ordinance a lot shall be defined as a parcel of land on which a principal building and its accessory building are placed, together with the required open spaces, provided that no such parcel shall be bisected by a public street and shall not include any portion of a public right-of-way. No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot area. A lot of record prior to April 1, 1986, which is bisected by a public street or private roadway shall be 1 lot for the purpose of this Ordinance.



Lot Type Diagram

Lot, Corner

A lot abutting 2 or more streets at their intersection provided that the corner of such intersection shall have an angle of 135 degrees or less, measured on the lot side. (See Lot Type Illustration)

Lot, Double Frontage

A parcel of land, other than a corner lot, with frontage on more than 1 street or with frontage on a street and a navigable body of water. Double frontage lots, for the purpose of this Ordinance, shall be deemed to have 2 street yards and no rear yard (See Lot Type Illustration).

Lot Width

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

Machine Shops

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

Manufacturing

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

Minor Land Division

Minor land divisions include the division of land by the owner or his agent resulting in the creation of 2, but not more than 4, parcels of building sites, any one of which is 10 acres or less in size; or the division of a block, lot or outlot within a recorded subdivision plat into not more than 4 parcels or building sites without changing the exterior boundaries of said block, lot or outlot. Such minor land divisions shall be made by a Certified Survey Map (CSM).

Minor Structure

Any small, movable accessory structure such as birdhouses, tool houses, pet houses, play equipment, arbors, and walls and fences under 4 feet in height.

Motel

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

Nonconforming Uses or Structures

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

Parking Lot

Any public or private land area designated and used for parking motor vehicles. A parking lot may be at ground level and not be subject to the setback and other yard requirements of a structure; or may be located within a structure which must meet the yard requirements of a specified zoning district.

Pervious Surface

Any artificial or natural surface which allows the entrance or passage of water or sediment into the ground surface via the porous nature of the material itself. The void areas and the infiltration rates of these materials allow rain water and surface water to penetrate deep into the soil areas allowing the natural recharge of groundwater. The Town of West Bend promotes and in some cases requires the use of pervious materials in lieu of impervious materials in developed areas of the Town; therefore the Town is encouraging the use of materials and technologies which achieve the goals of protection of surface water quality, prevention of flooding and groundwater recharge. Some examples of these materials include open cell block grass pavers, spaced paving bricks or pavers, pervious asphalt and pervious concrete.

Parties in Interest

Includes all abutting property owners, all property owners within 200 feet, and all property owners of opposite frontages.

Principal Structure

The primary structure on a parcel of land where the principal use occurs.

Principal Use

The permitted or conditional use on a parcel of land.

Processing

When used in describing an industrial operation, the series of continuous actions that changes 1 or more raw materials into a finished product. The process may be chemical as in the processing of photographic materials; it may be a special method such as processing butter or cheese; it may be a mechanical process such as packaging a base product.

Recycling

The process by which waste products such as metal cans, scrap metal, paper, or glass are reduced to raw materials and transformed into new and often different products. For the purpose of this Ordinance, recycling does not include the reclamation of sewage sludge, food wastes, and other organic materials.

Seat

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

Setback

The minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure.

Shopping Center

A group of commercial establishments planned, constructed and managed as a total entity with ample customer and employee parking provided on-site, with provision for goods delivery separated from customer access and with aesthetic considerations and protection from the elements. (See also "Strip Shopping")

Shoreland

Those lands lying within the following distances from the ordinary high water mark of navigable waters: 1,000 feet from a lake, pond or flowage; and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater. Shorelands shall not include those lands adjacent to farm drainage ditches where (a) such lands are not adjacent to a navigable stream or river; (b) those parts of such drainage ditches adjacent to such lands were non-navigable streams before streams before ditching or had no previous stream history; and (c) such lands are maintained in non-structural agricultural use.

Sign, Awning

A sign that is mounted or painted on, or attached to an awning, canopy, or marquee. (See Sign Type Illustration)

Sign, Copy

The message or advertisement, and any other symbols on the face of a sign. (See Sign Type Illustration)

Sign, Face

The area or display surface used for the message.

Sign, Ground

Any sign placed upon or supported by the ground independent of any other structure. (See Sign Type Illustration)

Sign, Portable

A sign that is not permanent, affixed to a building, structure, or to the ground. Such sign may be mounted on wheels to make it transportable. (See Sign Type Illustration)

Sign, Projecting

A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building. (See Sign Type Illustration)

Sign, Roof

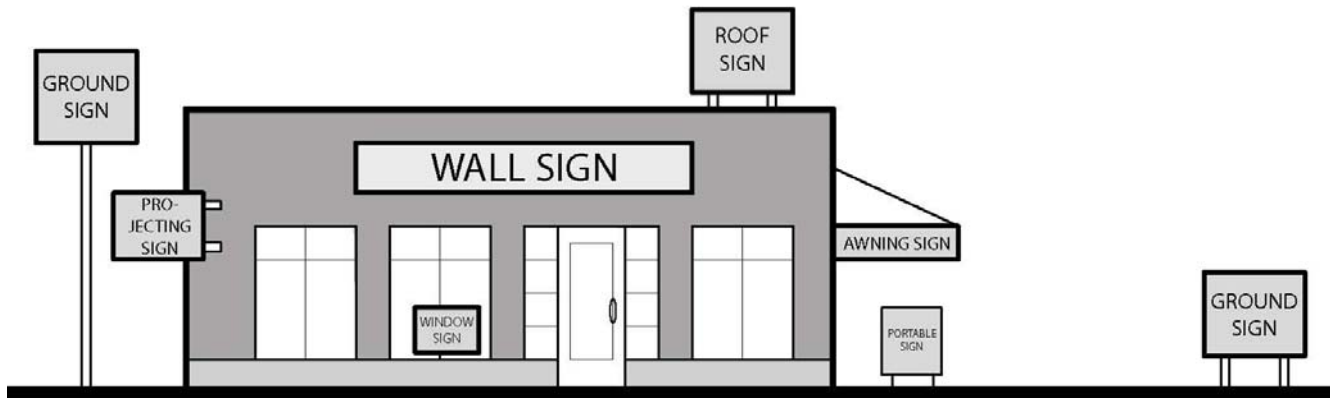
A sign that is mounted on the roof of a building or which is wholly dependent upon a building for support and which projects above a point of a building with a flat roof, the eave line of a building with a gambrel, or hip roof, or the deck line of a building with a mansard roof. (See Sign Type Illustration)

Sign, Wall

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

Sign, Window

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



Sign Type Illustration

Street

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

Strip Shopping

A pattern of commercial development located along one or both sides of a street which is generally 1 lot in depth and is characterized by multiple and relatively closely spaced driveways, low open space and landscaping ratios, and high floor area ratios. (See also "Shopping Center")

Structure

Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, which includes, but is not limited to, such objects as roofed and walled structures, decks, towers, masts, poles, booms, signs, decorations, carports, machinery, and equipment ice fishing shanties, gas or liquid storage tanks.

Substantial Improvement

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

Structural Alterations

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

Sustained Yield Forestry

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

Swimming Pool

Any structure, portable or permanent, containing a body of water 36 inches or more in depth, intended for recreational purposes, but not including a wading pool, an ornamental reflecting pool or fish pond or similar type pool, located and designed so as not to create a hazard or to be used for swimming.

Unnecessary Hardship

That circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of this Ordinance.

Use

(a) Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or (b) any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

Variance

An authorization granted by the Zoning Board of Appeals to construct, alter, or use a building or structure in a manner that deviates from the dimensional standards of this Ordinance. A variance may not permit the use of a property that is otherwise prohibited by the Ordinance or allow flood land construction that is not protected to the flood protection elevation.

Wetlands

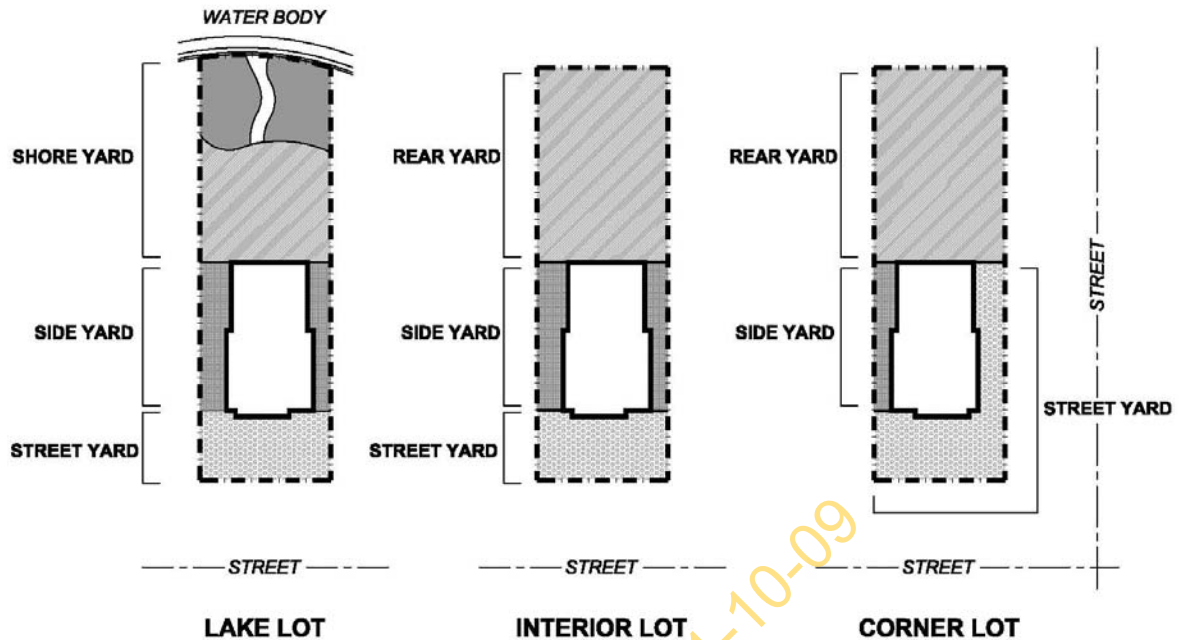
Those areas where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

Wind Energy Conversion System

A combination of: 1) some sort of surface area for capturing the wind; 2) a shaft, gearing belt, or coupling assembly for converting the rotational power of the attached surface area to an electrically or mechanically usable form; 3) a generator or alternator to convert the rotational energy into electrical energy; 4) some sort of tower or other structure upon which the first 3 elements are mounted.

Yard

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



Yard Type Illustration

Yard, Rear

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

Yard, Shore

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between a navigable body of water and a line parallel thereto through the nearest point of the principal structure. (See Yard Type Illustration)

Yard, Side

A yard extending from the street yard to the rear yard or shore yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure. (See Yard Type Illustration)

Yard, Street

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed street or highway line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have 2 such yards. (See Yard Type Illustration)

SECTION 16.00 ADOPTION AND EFFECTIVE DATE**16.01 VILLAGE POWERS**

The electors of the Town of West Bend, Washington County, Wisconsin, authorized the Town Board to exercise all powers related to villages and conferred on villages by Chapter 61 of the Wisconsin Statutes at an Annual Meeting held on the 5th day of April, 1954.

16.02 PLAN COMMISSION RECOMMENDATION

The Plan Commission of the Town of West Bend recommended the adoption of this Ordinance at a meeting held on the 24th day of September 2009.

16.03 PUBLIC HEARING

Pursuant to and in accordance with the Laws of the State of Wisconsin the Town Board of Supervisors held a public hearing on this Ordinance on the 10th day of November 2009.

16.04 TOWN BOARD APPROVAL

The Town Board of Supervisors concurred with the recommendations of the Town Plan Commission and adopted the Zoning Ordinance at a meeting held on the (date to be determined).

16.05 EFFECTIVE DATE

This Ordinance shall take effect upon adoption by the Town Board of Supervisors and the filing of proof of publication or posting in the office of the Town Clerk.

Date of Publication or Posting: October 2009

Effective Date: (To be determined)

// s // Paul Rice

Town Chairman

Attested:

// s // Rebecca Schuster

Town Clerk