

SECTION 17.03

GENERAL REGULATIONS

1. GENERAL PERMIT REGULATIONS.

A. Building and Zoning Permit.

1. **Required.** (repealed and recreated 2011-002) No building or structure shall be erected, converted, relocated, enlarged, structurally altered or moved from one location to another, unless and until a building permit is secured from the Code Enforcement Officer and a zoning permit is secured from the Zoning Administrator, certifying that such building or structure complies with the provisions of this chapter and with the building code and other applicable codes of the Town.
2. **Application.** An application for a building and zoning permit shall be made in conformity with the requirements of the Wisconsin Uniform Dwelling Code and shall include, for the purpose of proper enforcement of the regulations of this chapter, three copies of the following data:
 - a. A description of the proposed use and occupancy of the property involved and of all buildings or structures presently or proposed to be erected thereon.
 - b. **Plat of Survey.** (repealed and recreated 2011-002). Except as described in subsection (e.), below, a plat of survey of the proposal involved, drawn to a reasonable scale and properly dimensioned, shall be prepared and certified by a surveyor registered by the State. Such survey shall bear the date of the survey, which shall be within one year of the application for the building permit. The survey shall also show the following:
 - (1) The boundaries of the property involved.
 - (2) The location of the centerline of any abutting streets.
 - (3) The ordinary high water line of any stream or lake on which the property abuts.
 - (4) The location on the property of any existing buildings, structures, hard surfaces, proposed additions or proposed new buildings and structures, including the measured distances between such buildings and structures and the lot lines, and a chart indicating the area, measured in square feet, of each structure or hard surface.
 - (5) The location and grade of the proposed driveways and parking areas.
 - (6) The nearest portion of such buildings and structures and the centerline of any abutting street.
 - (7) The nearest portion of such buildings and structures and the ordinary high water line of any abutting stream or lake.
 - (8) The proposed floor elevation of any proposed buildings and structures in relation to the existing and/or established grade of any abutting streets and the ordinary high water line of any abutting stream or lake.
 - (9) The elevation and setback of any existing buildings or structures on adjacent parcels within 200 feet of any proposed new buildings, structures or additions.

Section 17.03 1. A. 2. c.

- (10) The location and elevation of sanitary sewer or percolation tests and soil borings, location of proposed septic tank and leach bed and location of proposed well.
- c. If within six months of the date of issuance of a permit the proposed construction or preparation of land for use has not commenced or if within 24 months an occupancy permit has not been issued, the building permit shall expire. Upon showing of valid cause, the Town Board may grant an extension of such permit for a period not to exceed six months.
- d. One copy of the above described data shall be retained by the Code Enforcement Officer, one copy shall be retained by the applicant and one copy shall be filed with the Town Clerk as a public record.
- e. **Plat of Survey Exceptions.** The following exceptions apply to the survey otherwise required by subsection b. above:
 - (1) For zoning permits that do not involve construction of a building (e.g. landscape, hardscape, driveway modifications) and do not need a building permit, a site plan containing all required information above, prepared and stamped by a registered engineer, registered landscape architect or registered architect may be substituted for the plat of survey.
 - (2) For proposals for interior modifications only, that do not change the open space on the property, no plat of survey is required.
 - (3) For zoning permits or building permits on lots that have at least 1,500 square feet more open space than the minimum by this Code, no plat of survey is required, subject to the following. This option is available if the Applicant or the Zoning Administrator produce, for the zoning Administrator's use current, clear, readable aerial photography to determine the existing amount of open space and dimensional elements of a site. If the Zoning Administrator determines under this subsection that a plat of survey is not required, then in lieu of the plat of survey the Applicant shall designate and show an area equal to the open space on an aerial photo acceptable to the Zoning Administrator which encompasses all the existing and proposed hard surface improvements, and the Zoning Administrator shall review this alternative document when conducting the open space review procedure of Section 17.03 1.A.3. of this Code.
- 3. **Fees.** Before receiving approval for a building and zoning permit, a fee shall be paid as designated from time-to-time by resolution of the Town Board.
- 4. **No Undesirable Structures.** No building or structure shall be erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied and no lumber, materials, furniture, equipment or excess excavation shall be stacked, piled or stored in a manner which adversely affects the property values or general desirability of the neighborhood.
 - a. The Code Enforcement Officer shall submit any such case in question respecting undesirable structures to the Plan Commission for its determination.
 - b. The Plan Commission shall base its determination upon the following considerations:
 - (1) Design or appearance of such unorthodox or abnormal character in relation to the surroundings as to be considered unsightly or offensive to the degree that would have an

Section 17.03 1. A. 4.b. (2)

adverse effect on the property values or general desirability of the neighborhood; or

- (2) Identical design and appearance with adjoining buildings or structures to the degree that monotony and commonness would have an adverse effect on the property values and general desirability of the neighborhood.

- c. The decision of the Plan Commission shall be stated in writing, including the reason for the decision.

5. Prior Permit.

- a. **Construction Permitted.** Nothing herein contained shall require any change in the plans, construction, size or designated use of any building or structure or part thereof for which a building and zoning permit has been issued before the effective date of this chapter and for which the construction of which shall have been substantially started within six months from the date of such permit.
- b. **Subsequently Nonconforming.** Any such use which does not conform to the use regulations of the District in which it is located shall, however, subsequently be considered a legal nonconforming use.

6. Open Space Review Procedure by Zoning Administrator. (created 2011-002)

- a. Documents are received by the Zoning Administrator and checked for completeness.
- b. Zoning Administrator shall walk the site to determine if the plat of survey or site plan captured all the existing hard surfaces and structures. If there are items missing, the applicant will be contacted and shall be required to provide this information.
- c. Zoning Administrator completes the zoning permit using the information on the plat of survey/site plan, unless the Zoning Administrator finds it to be inaccurate. If the Zoning Administrator finds it to be inaccurate, the applicant will be contacted and shall be required to provide this information.
- d. The Zoning Administrator reviews, as applicable the subdivision plat, conditional use and any other conditions put on the zoning of the property by the Town that dictates restrictions related to open space, land disturbance, tree removal or anything else that may affect the development of the property.
- e. Zoning Administrator informs the Applicant and the Owner of the property in writing of the current and required open space on the property via information on the zoning permit.
- f. For (i) any improvements to homes on lots directly adjacent to Pewaukee Lake, and (ii) new homes, additions, or lots with substantial hardscape improvements that reduces the open space to within 500 square feet or less of what is required; an as-constructed survey shall be prepared and submitted to the Zoning Administrator showing the final location of all improvements and a chart indicating the areas of all improvements on the site and the open space calculation. No occupancy permit shall be issued unless and until this document is submitted to and has received the approval of, the Zoning Administrator. The Zoning Administrator shall review the calculations and update the zoning permit as needed to reflect the final calculation of open space on the property. The Zoning Administrator shall place the as-constructed drawing and the final

Section 17.03 1. B.

zoning permit in the Town property file. No temporary occupancy permit can be issued for such a property, unless the Property Owner first provides a cash deposit of \$1.00 per square foot of floor space as defined on the building permit, with a minimum deposit of \$1,500 for completion of the as-constructed survey. Such cash deposit shall be retained by the Town Treasurer until such time as the Town Treasurer receives written notice from the Zoning Administrator that the as-constructed survey requirement has been met and the cash deposit should be refunded. It is the Applicant's responsibility to request the return of the deposit when the Applicant believes that the work is completed. The deposit is returnable only to the party who made the deposit unless satisfactory proof is shown that this right to claim the deposit has been assigned to a different claimant. In the event application for return of the deposit is not made within two (2) years of issuance of the temporary occupancy permit, the deposit shall be forfeited, and upon forfeiture the amount forfeited shall be owned by the Town without claim from the person making the deposit or from any other person. In the event a deposit is forfeited, this does not relieve the Applicant of the obligation to comply with the as-constructed survey requirements of this subsection, and forfeiture of the deposit by the Town is in addition to such other penalties and remedies as may apply.

B. Occupancy Permit.

1. **Required.** No vacant land shall be used or occupied and no building or structure shall hereafter be used or occupied until a zoning or occupancy permit has been issued certifying that any such building or structure, use or occupancy complies with the provisions of this chapter and any other applicable governmental regulations. No occupancy permit shall be issued until each of the requirements of this ordinance has been fulfilled by the applicant. A like permit shall be obtained before any change is made in the type of use including, but not limited to, the conversion of summer homes to year-round residences, or before any nonconforming use is resumed, changed, extended, expanded or granted conditional use status, or before new occupancy of vacant land or an existing building or existing structure.
2. **Application.** A zoning permit shall be applied for with the application for a building permit, and shall be accompanied by a statement by the applicant of the intended use of the land, premises, building or structure. Within ten days after the notification of the completion of the occupancy of the land or the erection, conversion, relocation, enlargement or structural alteration of the premises, building or structure, the Code Enforcement Officer shall make an inspection of the premises, building or structure and shall then issue an occupancy permit if the building and the intended use thereof comply with the requirements of this chapter.
3. **Temporary Occupancy Permit.** (repealed and recreated 2011-002). Pending the issuance of a regular permit, a temporary permit may be issued for a period not exceeding six months during the completion of alterations or during partial occupancy of land, premises, building or structure pending its permanent occupation. Such temporary permit shall not be issued except under such restrictions and provisions as will adequately ensure the safety of the occupants, and in any event will not be issued until the complete plumbing and electrical wiring and outlets are installed and approved and until the plastering, if any, and the outside wall insulation are completed. There shall be a charge for the temporary permit as set from time-to-time by resolution of the Town Board. Upon expiration of the temporary permit, the temporary permit shall be void and the occupancy must cease until such time as all provisions of this chapter are met. No temporary occupancy permit can be issued on properties subject to an as-constructed survey requirement per Section 17.03 1.A.6.f., except upon payment of a cash deposit as described therein.

4. **Fees.**

- a. Before receiving approval of an occupancy permit, the applicant shall pay the occupancy permit fees as designated from time-to-time by resolution of the Town Board.
 - b. In addition to the permit fees as required herein, the applicant for the permit shall deposit with the Code Enforcement Officer a certified check or cash in a sum as established by the Town Board from time-to-time for the purpose of guaranteeing that all other fees required by the Town shall be paid prior to the issuance of an occupancy permit and guaranteeing that occupancy does not occur until an occupancy permit is issued or temporary occupancy permit is issued and all conditions of occupancy are satisfied. The deposit shall be retained by the Town Treasurer until an occupancy permit is issued. The deposit shall be released upon fulfillment of the following provisions:
 - (1) The issuance of an occupancy permit and satisfaction of all conditions of the same;
 - (2) A written report from the Code Enforcement Officer that at the time of the issuance of the occupancy permit all other fees required by the Town, such as electrical and plumbing inspection fees, have been paid;
 - (3) A written report from the Code Enforcement Officer that the necessary culverts, drainage ditches and road improvements have been made and have not been damaged during construction;
 - (4) A sworn statement from the applicant that the portion of the building or structure under construction has not been occupied prior to the issuance of the occupancy permit or temporary occupancy permit and that no party occupies the premises by moving in any furniture or personal belongings or in any way occupying the premises as the tenant, owner or person waiting to move into the premises;
 - (5) A statement from the Code Enforcement Officer that the builder has complied with all of the building code requirements of the Town and that no one has occupied the premises prior to the issuance of the occupancy permit, temporary occupancy permit or that portion of the building or structure under construction.
 - c. The Clerk shall attach the statement and documents to a voucher to be signed by the permittee for return and release of the deposit if the conditions have been met. If the occupancy permit is not issued within 24 months from the date that the building permit was issued or within an extension granted by the Town Board, or if the other fees required to be paid have not been paid, or the necessary certificate and statement have not been filed by the time of occupancy, or occupancy has occurred prior to issuance of an occupancy permit or temporary occupancy permit, or any conditions of occupancy were violated, the deposit shall be forfeited.
5. **Site Restoration.** Within 12 months after occupancy of any premises, building or structure, all disturbed areas shall be graded and either seeded or restored to their natural state and all drives and parking areas shall be graded and either gravel, asphalt or concrete installed.

C. **Site Plan and Plan of Operation Review and Approval.**

1. **Purpose.** The purpose of this section is to specify the requirements and procedures for the review and approval of site plan applications. The provisions of this section are designed to ensure that all

Section 17.03 1. C. 2.

proposed land use complies with the requirements of this chapter.

2. **Required.** No vacant land shall be occupied or used and no building or structure shall be used or occupied until, if required by this chapter, an approved site plan and plan of operation are approved by the Plan Commission. A like approval shall be obtained before any change is made in the type of use, or before any nonconforming use is resumed, changed, extended or granted conditional use status, or before new occupancy of vacant land or existing building or structure. Proceedings for approval of a site plan and plan of operation shall be initiated by the owner(s) of the subject property, or their legally authorized representative(s).
3. **Application.** All applications for proposed site plans and plan of operation shall be filed in the office of the Code Enforcement Officer and shall be accompanied by all of the following:
 - a. A small location map showing the subject property and illustrating its relationship to the nearest street intersection. (A photocopy of a Town street name map with the subject property clearly indicated shall suffice to meet this requirement.)
 - b. A main site drawing which includes:
 - (1) A title block which indicates the name and address of the current property owner;
 - (2) The date of the original plan and the latest date of revision to the plan;
 - (3) A north arrow and a graphic scale. Said scale shall not be smaller than one inch equals 100 feet;
 - (4) All property lines and existing and proposed right-of-way lines with bearings and dimensions clearly labeled;
 - (5) All existing and proposed easement lines and dimensions with a key provided and explained on the margins of the plan as to ownership and purpose;
 - (6) All existing and proposed buildings, structures, and paved areas, including walks, drives, decks, patios, fences, utility poles, drainage facilities, and walls;
 - (7) All required building setback lines;
 - (8) A legal description of the subject property;
 - (9) The location, type, and size of all signage on the subject property;
 - (10) The location, type and orientation of all exterior lighting on the subject property;
 - (11) The location of all access points, parking and loading areas on the subject property, including a summary of the number of parking stalls and labels indicating the dimension of such areas;
 - (12) The location of all outdoor storage areas;
 - (13) The location and type of any permanently protected green space areas;

Section 17.03 1. C. 3. b. 14.

- (14) The location of existing and proposed drainage facilities; and
- (15) In the legend, data for the subject property:
 - (a) Lot Area;
 - (b) Floor Area;
 - (c) Building Height.
- c. A landscaping plan of the subject property, at the same scale as the main plan, showing the location of all required buffer-yard and landscaping areas.
- d. A written description of the type(s) of land use existing and proposed to be located on the subject property per the land use categories.
- e. A completed plan of operation form.
- f. (created 2005-003) A Detailed Site Analysis and Mitigation Plan shall be required in accordance with Section 18.14 of the Land Division and Development Control Ordinance, for all Site Plans and Plan of Operations which contain:
 - 1. Permanently protected natural resource areas defined as required protected areas under State and Federal regulation.
 - 2. Any environmental corridor component identified by the Southeastern Wisconsin Regional Planning Commission, including primary corridors, secondary corridors, and isolated natural resource areas.
 - 3. Any other environmental feature designated in the Town Land Use Plan requiring a Detailed Site Analysis and Mitigation Plan in conjunction with development review.
- g. **Application.** (repealed and recreated 2010-005) All application forms for action by the Plan Commission shall be signed by the owner of the property on which the approval is being requested.
- 4. **Review and Approval.** The proposed site plan and plan of operation shall be reviewed by the Code Enforcement Officer to ensure compliance with all of the requirements for the submittal and complete compliance with the provisions of this chapter and any other applicable Town Ordinances, as well as with the intent of this chapter. Said review shall be completed within ten working days of receipt of a complete site plan and plan of operation by the Code Enforcement Officer. Upon satisfaction of all of the requirements of this section which demonstrates complete compliance with the provisions of this chapter, the Plan Commission shall review the site plan and plan of operation. The approved site plan and plan of operation shall be submitted as part of an application for any subsequently sought development for the subject property, including a building and zoning permit and/or an occupancy permit.
- 5. **Initiation of Land Use or Development Activity.** Absolutely no land use or development activity, including site clearing, grubbing, or grading shall occur on the subject property prior to the approval of the required site plan and plan of operation. Any such activity prior to such approval shall be a violation of this chapter and shall be subject to all application enforcement mechanisms and penalties.

Section 17.03 1. C. 6.

6. **Modification of an Approved Site Plan and Plan of Operation.** Any and all variation between development and/or land use activity on the subject property and the approved site plan and plan of operation is a violation of this chapter. An approved site plan and plan of operation shall be revised and approved via the procedures of this section so as to clearly and completely depict any and all proposed modification to the previously approved site plan and plan of operation prior to the initiation of said modifications.
7. **Fee.** Before receiving approval of a site plan and plan of operation, a fee shall be paid as designated from time-to-time by resolution of the Town Board.
8. **Expiration.** (Repealed and Recreated 2010-005) Any site, grading, landscape or lighting plan or plan of operation that requires Town Plan Commission approval shall automatically expire one year after the date of such approval unless building permits have been obtained and significant construction has begun on the development or unless extended by the Town of Delafield Plan Commission.

D. Home Occupation Permit.

1. **Purpose.** The purpose of this section is to specify the requirements and procedures for the review and approval of home occupation permit applications. The provisions of this section are designed to ensure that the proposed use complies with the requirements of this chapter and does not negatively impact the surrounding properties.
2. **Required.** No home occupation shall be conducted until a permit has been issued by the Plan Commission pursuant to this section. Proceedings for approval of a home occupation permit shall be initiated by the owner(s) of the subject property, or their legally authorized representative(s).
3. **Conditions.** The Plan Commission shall review Home Occupation Permit Applications. The Plan Commission shall not grant a Home Occupation Permit unless all of the following conditions have been met:
 - a. The home occupation shall be conducted only completely within the dwelling unit, and not in any accessory building or structure, and not within any garage or on any porch, deck, patio or other unenclosed or partially-enclosed portion of the dwelling unit.
 - b. The home occupation shall be conducted by a resident of the dwelling unit, and no more than 1 other person shall be employed on the premises, on either a part-time or full-time basis in the business.
 - c. No more than 25% of the total living area of the dwelling (exclusive of garage and porch areas) shall be used for the home occupation.
 - d. The portion of the dwelling unit used for the home occupation shall not serve as a storage facility for a business conducted off-premises.
 - e. The sale of items at the location of the home occupation shall be limited to items produced on-site and shall be conducted only on an appointment basis.
 - f. No activity, materials, goods, or equipment incidental to the home occupation shall be externally visible.

Section 17.03 1. D. 3. g.

- g. Only 1 sign, not to exceed 3 square feet, may be used to advertise a home occupation. Said sign shall not be located within a right-of-way, and shall be of an appearance which is harmonious with nearby residential areas.
 - h. The use of the dwelling unit for a home occupation shall in no way be incompatible with the character of nearby residential areas.
 - i. Multiple home occupations may be carried on in any single dwelling unit, if all uses meet the conditions of the home occupation regulations and if the plans of operations do not negatively affect adjacent or surrounding neighbors. (amd. 00-508)
 - j. No more than 2 customers (or 2 parties of customers) shall be within the residence at any one time.
 - k. Regardless of the number of home occupations taking place in a single dwelling unit, a minimum of 2 off-street parking spaces reserved for business use shall be provided on site. (amd. 00-508)
 - l. In the case of rental properties, the property owner's written permission must be obtained and submitted as part of the conditional use permit petition.
4. **Application.** (repealed and recreated 2010-005). All applications for home occupation permits shall be filed in the office of the Code Enforcement Officer and shall include a plan of operation of sufficient detail to enable the Plan Commission to make a determination as to the appropriateness of the proposed use. The application shall be signed by the owner of the property on which the approval is being requested.
5. **Review and Approval.** The proposed home occupation permit application shall be reviewed by the Code Enforcement Officer to ensure compliance with all of the requirements for the submittal and complete compliance with the provisions of this chapter and any other applicable Town Ordinances, as well as with the intent of this chapter. Said review shall be completed within ten working days of receipt of a complete home occupation permit application by the Code Enforcement Officer. Upon satisfaction of all of the requirements of this section which demonstrates complete compliance with the provisions of this chapter, the Plan Commission shall review the home occupation permit application, and determine whether a permit shall issue. If a permit is issued, the permit shall be submitted as part of an application for any subsequently sought development for the subject property, including a building and zoning permit and/or an occupancy permit.
6. **Modification of an Approved Site Plan and Plan of Operation.** Any and all variation between development and/or land use activity on the subject property and the approved home occupation permit is a violation of this chapter. An approved home occupation permit shall be revised and approved via the procedures of this section so as to clearly and completely depict any and all proposed modification to the previously approved site plan and plan of operation prior to the initiation of said modifications.
7. **Fee.** Before receiving approval of a site plan and plan of operation, a fee shall be paid as designated from time-to-time by resolution of the Town Board.
8. **Expiration.** (Repealed and Recreated 2010-005) A Home Occupation permit that has been approved by the Town Plan Commission shall expire one year after the date of such approval, unless the home occupation has been implemented by the applicant. If the home occupation is not used for a period of twelve months, the Home Occupation permit shall be considered null and void, unless

Section 17.03 1. E.

extended by the Town of Delafield Plan Commission.

E. Revocation of Permits.

1. It shall constitute a violation of this chapter for any person, firm, corporation, or voluntary association, either owner or agent, to do any of the things required by this chapter without having first obtained the required permits.
2. It shall constitute a violation of this chapter for any person, firm, corporation or voluntary association, either owner or agent, to give false statements when applying for a required permit. A permit issued upon a false statement of any fact which is material to the issuance thereof shall be void. Whenever the fact of such false statement shall be established to the satisfaction of the Code Enforcement Officer, the Code Enforcement Officer shall forthwith revoke the permit by notice in writing to be delivered to the holder of the void permit upon the premises where the violation has occurred, or if such holder be not found there, by mailing the said notice of revocation by certified letter to the holder's last known address.

2. USE REGULATIONS.

- A. **Compliance.** Except as may be otherwise specifically provided, the use of land, premises, buildings or structures now existing or hereafter erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied, shall be in compliance with the regulations established herein for the District in which the same is located.
- B. **Uses Restricted.** In any District, no land, premises, buildings or structures shall be used and no building shall be erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied except for the uses as permitted in that District and in compliance with the regulations established for that District in this chapter.
- C. **Permitted Uses.** Permitted uses are permitted by right, subject to the provisions of this chapter.
- D. **Accessory Uses Buildings and Structures.** Accessory uses, buildings and structures are customarily incidental to the permitted uses in the District and located upon the same lot occupied by the principal use, building or structure. Any accessory use building or structure shall conform to the established regulations of the District in which it is located.
- E. **Conditional Uses.** Conditional uses may be granted by the Town Board, following a recommendation of the Plan Commission, upon a determination of acceptable project impact and imposition of appropriate conditions as provided in Section 17.05 of this ordinance.
- F. **Legal Nonconforming Uses.** A legal nonconforming use is any lawfully established use of land, premises, building or structure at the time of enactment of this chapter that does not conform to the use regulations for the District in which it is located subject to the regulations of Section 17.07.
- G. **Unclassified Uses.** Any use not specifically listed as a permitted use shall be considered to be prohibited except as may be otherwise specifically provided hereinafter. In case of question as to the classification of use, the question shall be submitted to the Plan Commission for determination.
- H. **Principal Uses.** These uses represent the main or primary use of land, premises, buildings or structures as permitted by the regulations of the District in which such use is located.

Section 17.03 2. I.

- I. **Principal Structure.** A structure used or intended to be used for the principal use as permitted on such lot by the regulations of the zoning District in which it is located.
- J. **Temporary Uses and Structures.** Any temporary uses or temporary buildings or structures intended to remain in place for less than eight (8) days, may be permitted subject to the approval of the Code Enforcement Officer upon review of potential impacts of the use, building and/or structure. Any temporary use or temporary building or structure intended to remain in place for more than seven (7) days, but less than four (4) months, and any temporary use or temporary building or structure which does not comply with the use, setback and/or offset requirements of the District in which it is located may be permitted subject to approval of the Plan Commission upon review of potential impacts of the use, building and/or structure. In all cases where the temporary building and/or temporary structure do not comply with the offset requirements of the District in which it is located, the written approval of the abutting property owners affected must be obtained. No temporary use, temporary building or temporary structure shall be permitted for more than four (4) months.
- K. **Nuisance Uses.** Any use, in any District, which becomes hazardous, harmful, noxious, offensive or a nuisance to the surrounding neighborhood may be required to be corrected or improved by such measures as are directed by the Town Board, or its authorized representative.

3. SITE REGULATIONS.

- A. **Buildings and Structures Must Be On Lot.** Every building and structure hereafter erected, converted, relocated, enlarged or structurally altered shall be located on a lot. In no case shall there be more than one principal building or structure on a lot, except upon a showing to the satisfaction of the Plan Commission that such approval will not be contrary to the spirit and intent of this chapter, upon prior approval of the Plan Commission, upon satisfying all conditions of the Plan Commission and provided that sufficient lot area is provided and the buildings or structures are so located so as to individually meet the setback, offset, lot size and open space requirements of the District in which they are located.
- B. **Buildings and Structures on Public Street or Way.** Every building or structure hereafter erected, structurally altered or relocated shall be located on a lot which abuts a public street, road or highway except if permitted under section C. below.
- C. **Buildings and Structures On Private Street, Road or Highway.** Subject to approval of the Plan Commission, a building or structure may be permitted on a tract of land which does not abut a public street or officially approved way, if such tract of land is at least three acres in area, has access by permanent easement of at least 33 feet in width to an improved public street or way and does not conflict with plans for future development of the area. If the easement serves more than one parcel of land or a singular parcel in excess of six acres, it shall be 66 feet in width, unless otherwise designated by the Plan Commission. Before recording a plat or certified survey map containing such an easement, an agreement acceptable to the Town shall be filed designating financial responsibility and maintenance of the easement. Private streets constructed in easements serving more than one building or structure site shall meet the same minimum standards on width and construction standards established for "Minor Streets" except that a seal coat pavement may be installed in lieu of the bituminous concrete pavement, unless these standards are waived by the Plan Commission and the Town Board.
- D. **Site Maintenance.** In order to protect the health, safety and welfare of the residents of the Town and to maintain the desirability, amenities and property values of the residential, commercial and industrial neighborhoods of the Town, it shall be the responsibility of the owners, occupants and lessees of any premises to maintain their property in accordance with the following standards.

Section 17.03 3. D. 1.

1. **General Maintenance.** The exterior of every structure or accessory structure shall be maintained free of broken glass, loose shingles, excessive paint peeling, crumbling stone or brick, loose boards or other conditions reflective of deterioration or inadequate or deferred maintenance.
2. **Litter Control.** Construction sites shall be maintained in such a manner so as to prevent litter from being blown off the site. Accordingly, all litter from construction activities shall be picked up at the end of each workday and placed in appropriate containers. Litter collection and storage areas shall be maintained in a clean condition to ensure that all litter on the premises is controlled and disposed of properly. Additionally, prime contractors shall also be responsible to abide by this provision.
3. **Outside Storage.** No unenclosed storage of materials, equipment or supplies including, but not necessarily limited to, unused or junked appliances, furniture, lumber, bricks, and cement blocks shall be permitted where such storage is readily visible from any public place or from any surrounding private property. Dumpster and recycling areas for development occurring subsequent to this chapter being adopted shall be adequately screened.
4. **Application.** All applications for home occupation permits shall be filed in the office of the Code Enforcement Officer and shall include a plan of operation of sufficient detail to enable the Plan Commission to make a determination as to the appropriateness of the proposed use. The application shall be signed by the owner of the property on which the approval is being requested.

4. BUILDING REGULATIONS.

- A. **Restrictions.** No building or structure shall hereafter be erected, converted, relocated, enlarged, structurally altered or moved from one location to another except in conformity with the following locational regulations as hereinafter specified for the District in which it is located.
- B. **Purpose and Intent.** The purpose and intent of regulating building and structure location is as follows:
 1. To require the provision of a buffer zone between noise-intolerant land uses (e.g. residences, nursing homes, day care centers, schools, churches) and noise generating land uses, adjacent streets, roads or highways to effectively attenuate noise and buffer such developments from the pollution and hazards attendant to other uses and vehicular traffic;
 2. To require the provision of adequate physical separation between uses to minimize conflict;
 3. To allow exposure to optimum amounts of light, air, and ventilation;
 4. To attenuate noise, odors, fumes and dust generated by land use before they infringe upon adjacent land use;
 5. To provide aesthetic open space of sufficient size to accommodate landscaping and to soften, compliment and enhance architectural design of buildings, parking areas, loading facilities and utilities;
 6. To provide adequate area for snow piling;
 7. To ensure adequate separation between pedestrian and vehicular circulation;
 8. To promote cluster development and other internally oriented living, shipping and working environments and to discourage strip development;

Section 17.03 4. B. 9.

9. To provide adequate area to detain, retain and facilitate surface drainage;
10. To protect and preserve the quality and quantity of ground water resources;
11. To prevent development which may result in unacceptable non-point source pollution;
12. To provide diversified and balanced growth.

C. **Setbacks.** Unless otherwise specified within an individual District or allowed through appropriate variance or appeal, the proximity of any portion of a building or structure to the street lot lines shall be regulated by setback provisions as follows:

1. Base setback lines, from which a building or a structure shall be measured are hereby established for all streets, roads, highways and driveways providing legal access for more than one property whether or not used by more than one property in the Town as follows, unless otherwise specified by action of the Plan Commission:
 - a. On all public streets, roads or highways, the base setback line shall be located at a distance from the center line equal to 1/2 such established width as designated as the proposed width on the "Official Street Map" of the Town. Such base setback line shall be 33 feet from the center line of all Town roads unless designated on the "Official Street Map" to the contrary. On all private streets, roads, highways and driveways providing legal access to more than one property whether or not used by more than one property, the base setback line shall be located at a distance from the center line equal to one-half such established width as designated on the document establishing the private street, road, highway or driveway and if no such document exists or if such document does not clearly establish a width, the base setback line shall be 33 feet from the actual centerline of the private street, road, highway or driveway.
 - b. On all cul-de-sacs, the base setback line shall be 75 feet from the center point of the cul-de-sac unless specifically designated otherwise by the Plan Commission.
 - c. Such base setback lines shall be parallel to and measured at right angles to the centerline of the public or private streets, roads, highways or driveways.
2. Vision setback lines at the intersection of public or private streets, roads, highways or driveways providing legal access for more than one property whether or not used by more than one property and at the intersection of one of the same with a railroad where the grade is not separated, are hereby established as follows:
 - a. Across each sector between the intersection of one of the above with a railroad, a vision setback line shall be established by a straight line, connecting points on the base setback line and the railroad right-of-way line which points are located 120 feet from the intersection of the base setback line and the railroad right-of-way.
 - b. Across each sector between the intersection of one of the above with other than a railroad, one or more of which has an established width of 100 feet or more, a vision setback line shall be established by a straight line connecting two points on the intersecting base setback line, which points are located 60 feet distant from the intersection of the base setback lines.
 - c. Across each sector between any other intersection, a vision setback line shall be established by a straight line connecting two points on the intersecting base setback lines, which points are

Section 17.03 4. C. 3.

located 30 feet distant from the intersection of the base setback line.

3. In the vision setback area, no building or structure of any kind shall be permitted which exceeds a height of three feet above the elevation of the center of the intersection except for necessary highway and traffic signs, public utility lines and open fences through which there is clear vision, nor shall any plant material be permitted which obscures safe vision of the approaches to the intersection.
 4. No principal building or structure or accessory buildings or structures shall be hereafter erected, converted, relocated, enlarged, or structurally altered so that any portion or projection thereof is closer to the base setback line than the setback distance hereinafter specified by the regulation for the District in which the same is located with the following exceptions applicable only where the setback requirements of the properties involved are identical:
 - a. Where the nearest principal building or structure on one side of a proposed principal building or structure is within 500 feet and has less than the required setback and the nearest principal building or structure on the other side of a principal building or structure is 500 feet or greater away, the average between such existing setback of the nearest principal building or structure and the required setback shall apply.
 - b. Where the nearest principal buildings or structures on both sides of a proposed principal building or structure are within 500 feet, but neither is closer than 300 feet to the proposed principal building or structure and each have less than the required setback, the average of such existing setbacks of the nearest principal building or structure and the required setback shall apply.
 - c. Where the nearest principal buildings or structures on both sides of a proposed building or structure are each within 300 feet of the proposed principal building or structure and each have less than the required setback, the average between such existing principal buildings or structures setbacks shall apply.
 - d. In the case of a proposed addition to an existing building or structure which has less than the required setback, such existing proposed building or structure may be considered the "nearest principal building or structure" in order to apply the aforesaid exceptions in determining required setback for the proposed addition.
 5. (amd. 2008-004) The only buildings or structures permitted within such setback area, upon receipt of all required governmental approvals, shall be necessary highway and traffic signs, underground structures as regulated by this chapter, walls and fences, mail boxes, and signs as permitted under the individual District regulations, and, with the approval of the Plan Commission, temporary structures, and outdoor lighting installations and necessary public utility lines, poles and structures.
- D. **Offsets.** Unless otherwise specified within an individual District or allowed through appropriate variance or appeal, the proximity of any portion of a building or structure to the side or rear lot line shall be regulated by offset provisions as follows:
1. No principal building or structure, or its accessory buildings or structures, shall be hereafter erected, converted, relocated, enlarged, structurally altered or moved from one location to another so that the foundation wall is closer to any lot line than the offset distance hereinafter specified by the regulations for the District in which the same is located with the following exception: in the case of any lot of record which has been created prior to the adoption of this chapter, and which has a lot width less than 100 feet, the offset for the principal structure from a side lot line shall be 15% of the

Section 17.03 4. D. 2.

lot width provided, however, that no offset shall, in any case, be less than seven and one-half feet, and no principal building is closer than 20 feet to any other structure on an adjoining lot measured from the outward-most points of the two structures. Offsets for detached accessory buildings and structures on lots of 100 feet in width or less shall be five feet, provided that no detached accessory building or structure shall be located closer than ten feet to any other accessory building or structure. No offset of a principal building or structure shall, in any case be less than seven and one-half feet and only as authorized above. Furthermore, a grading and drainage plan shall be submitted to and approved by the Town Engineer for any principal structure with an offset of less than 15 feet.

2. Where principal buildings or structures or accessory building and structures have an eave or building overhang of greater than 18 inches, the offset distance shall be increased by the difference between the eave/overhang and 18inches.
3. Where a lot abuts a District boundary line, the offsets from such line in the District of less restricted use shall be not less than that required for the District of more restrictive use.
4. No principal building or structure, its accessory building, structure or sewage disposal system, shall be placed within 75 feet of a WF-1 Wetland-Floodplain District.
5. In the case of multiple family or commercial use principal building or structure, the offsets may be modified to allow two or more principal buildings or structures on adjoining lots to be erected with common or directly adjoining walls provided the requirements of the State Industrial Code relative to such construction are complied with and provided that at both ends of such "row" type principal buildings or structures the applicable offset requirements shall be complied with.
6. No principal building or structure or accessory buildings or structures shall be hereafter erected, converted, relocated, enlarged, or structurally altered so that any portion or projection thereof is closer to the shore lot line than the offset distance hereinafter specified by the regulation for the District in which the same is located with the following exceptions applicable only where the shore lot line offset requirements of the properties involved are identical:
 - a. Where the nearest principal building or structure on one side of a proposed principal building or structure is within 500 feet and has less than the required shore lot line offset and the nearest principal building or structure on the other side of a principal building or structure is 500 feet or greater away, the average between such existing shore lot line offset of the nearest principal building or structure and the required shore lot line offset shall apply.
 - b. Where the nearest principal buildings or structures on both sides of a proposed principal building or structure are within 500 feet, but neither is closer than 300 feet to the proposed principal building or structure and each have less than the required shore lot line offset, the average of such existing shore lot line offset of the nearest principal building or structure and the required shore lot line offset shall apply.
 - c. Where the nearest principal buildings or structures on both sides of a propose building or structure are each within 300 feet of the proposed principal building or structure and each have less than the required shore lot line offset, the average between such existing principal buildings or structures shore lot line offset shall apply.
 - d. In the case of a proposed addition to an existing building or structure which has less than the required shore lot line offset, such existing proposed building or structure may be considered the "nearest principal building or structure" in order to apply the aforesaid exceptions in

Section 17.03 D. 7.

- e. determining required shore lot line offset for the proposed addition.
- 7. (Cr. 2008-004) the only structures permitted within such offset area, upon receipt of all governmental approvals, shall be underground structures as regulated by this chapter, walls, fences, mailboxes and signs as permitted under the individual District regulations, and, with the approval of the Plan Commission, temporary structures, outdoor lighting installations and necessary public utility lines, poles and structures.
- E. **Maintenance and Use of Setback and Offset Areas.** Any such required setback or offset area shall be landscaped and kept clean and free from the accumulation of debris or refuse and shall not be used for the storage or display of equipment, products, vehicles or any other material.
- F. **Accessory Building and Structure Location.** No detached accessory building shall be erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied on a lot so that a portion or projection thereof is closer than 10 feet to the principal building on the lot, nor any closer to the lot line as required in subparagraphs B. and C. above.
- G. **Street Grade.** Every building or structure hereafter erected, converted, relocated, enlarged, structurally altered, occupied or reoccupied shall be located on a lot which abuts a public street, road or highway (except as otherwise provided in this chapter) at a grade approved by the Town Engineer as being in satisfactory relationship with the established grades, if any, and if not, with existing street, road or highway grade, with particular consideration for proper drainage and safe vehicular access.

5. AREA REGULATIONS.

A. Floor Area

- 1. **Minimum Floor Area, Residential.** Any building or structure intended in whole or part for residential purposes shall provide a minimum floor area as hereinafter specified by the regulations for the District in which such building or structure is located.
 - a. The minimum required floor area is stated in terms of that of a single floor building or structure.
 - b. The single (or first) floor level is defined as that livable floor area which is not over any other livable floor area.
 - c. The minimum required floor area shall be increased by 200 square feet for any building or structure not having a basement of at least 300 square feet in area.
 - d. In multistoried buildings or structures, the minimum required first floor area may be reduced by 1-1/2 square feet for each square foot by which the total floor area, as determined by the formula described in subparagraph 1.e. below exceeds the specified minimum single floor area. The following table shows examples of minimum first and second floor combinations to satisfy requirements of minimum required single floor area.

DEVELOPMENT STANDARDS

Combined Floor Area Regulations - Minimum Required			
Single Floor Building (sq. ft.)	2 - Story: First Floor (sq. ft.)	2 - Story: Second Floor (sq. ft.)	Total (sq. ft.)

Combined Floor Area Regulations - Minimum Required			
1,200.00	—	—	1,200.00
	1,050.00	250.00	1,300.00
	900.00	500.00	1,400.00
	750.00	750.00	1,500.00
1,350.00	—	—	1,350.00
	843.75	843.75	1,687.50
1,500.00	—	—	1,500.00
	1,350.00	250.00	1,600.00
	1,200.00	500.00	1,700.00
	1,050.00	750.00	1,800.00
	937.50	937.50	1,875.00
1,650.00	—	—	1,650.00
	1,500.00	250.00	1,750.00
	1,350.00	500.00	1,850.00
	1,200.00	750.00	1,950.00
	1,031.25	1,031.25	2,062.50

- e. Livable floor area shall be measured at each level from the outside edge of wall to outside edge of wall and for purposes of computing total floor area shall not include attached or detached garages, other outbuildings, open unheated porches and breezeways or basements. The second floor of 1-1/2 and two story buildings or structures may be included in computing total minimum floor area according to the following schedule:
- (1) That portion of the second floor of 1-1/2 and two story buildings or structures which has a minimum distance between ceiling face and the top of the first floor of seven feet shall be included in computing the total minimum floor area, provided there is a permanent stairway leading from the first floor to the second floor.
 - (2) In split level units, floor area shall be computed as follows:
 - (a) If less than one-half of the lower level is above ground, such level shall be considered a basement and cannot be included in total floor area of the building or structure, unless such basement qualifies as an exposed basement.
 - (b) If more than one-half of the lower level is aboveground, such areas shall be included in determining the floor area. If there is no basement below this level, 200

Section 17.03 5. A. 2.

square feet of floor area shall be required in addition to the floor area requirement of the zoning District. This required floor area shall be finished as an integral part of the building or structure within 18 months of the date upon which the building and zoning permit is issued.

2. **Minimum Floor Area, Nonresidential.** Any building or structure intended in whole or in part for nonresidential purposes shall provide a minimum floor area as defined in § 17.02 of this chapter and as specified by the regulations for the District in which such building or structure is located.
3. **Exceptions.** The Plan Commission may grant an exception to permit a single story building or structure of less than the required minimum floor area where such grant would not be contrary to the spirit or intent of the chapter, and provided the proposed building or structure would not be of such character or quality as to depreciate the property values of the surrounding area and provided further that in no case shall a minimum floor area of less than 1,100 square feet be permitted.

B. Lot Size.

1. No building or structure shall be erected on a lot of less area or width than hereinafter specified by the regulations of the District in which such building or structure is proposed to be located, except as modified herein.
2. For the purpose of this chapter, the lot area shall be measured from the base setback line and shall be exclusive of the area between the base setback line and the existing property line ultimately to be included in the street, but may include land zoned “Wetland-Floodplain” subject to compliance with this chapter.
3. Lot width shall be the length of the building setback line, and shall be no less than the District's stated minimum lot width.
4. No lot area or lot width shall be reduced by any means so as to create a lot of less than the required area or width or so that the existing offsets, setbacks, open space or lot area would be reduced below that required by the regulations for the District in which such lot is located.
5. Any lot which illegally existed prior to enactment of this chapter shall not be made legal solely by the adoption of this chapter.
6. In the case of an existing substandard legal nonconforming lot of record, such lot may be used for any purpose permitted in such District but not for residential purposes for more than one family, provided however, that in no case, except as provided in this chapter, shall the setback, offset or open space requirements be reduced except by a grant of a variance.
7. In the case of an existing substandard legal nonconforming lot of record at the time of the passage of this chapter which does not conform to the zoning regulations of the Town, and which adjoins along a side lot line of property held in the same ownership, whether a conforming legal lot or legal nonconforming lot, neither lot shall be conveyed to another owner nor shall building permits be issued for a building or structure on either lot except in conformity with the following:
 - a. **Petition for Determination.** The owner of said lots may at any time prior to a conveyance of either lot or request for building and zoning permit for either lot, petition the Town Board for a

Section 17.03 5. B. 7. b

determination as to the status of the lots.

- b. **Referral to Plan Commission.** Such petition shall be referred to the Plan Commission for a study to determine the practical possibility of a re-division of such lots to provide lots which will be in conformity, if possible, or otherwise in substantial conformity to the underlying zoning regulations of the Town.
- c. **Criteria.** The Plan Commission in making its recommendation and the Town Board in making its determination shall give consideration, among others, to the following factors:
 - (1) **Compatibility.** The size, quality, and character of existing lots and building development in the immediate area with a view to maintaining compatibility and protecting existing values.
 - (2) **Sewage Disposal.** Where public sewer is not available, the lot size necessary to insure safe sewage disposal.
 - (3) **Practicability.** The economic and engineering practicality of any possible re-division.
 - (4) **Hardship.** The degree of practical hardship which may be imposed upon the owner.
- d. **Method of Re-division.** Such re-division may be accomplished as is appropriate by:
 - (1) Vacation and replatting of all or a part of a recorded plat.
 - (2) Combining of lots or parts of lots by Certified Survey Map.
- e. **Determination of Ownership.** For the purposes of this section, lots are to be considered in the same ownership when owned by: the same individual or corporation; an individual and another in joint tenancy, or as tenants in common, and either of said joint or common tenants owns other lots individually or as a joint tenant or tenant in common with another; an individual and other lots are owned by a spouse, parents, grandparents, children, grandchildren, or the spouse of any child or grandchild, or a brother or sister or spouse of a brother or sister of such person; and when any of said lots are owned by an individual and other lots are owned by a corporation in which said individual is an officer or director or controlling stockholder.

C. Open Space.

- 1. No building or structure shall be erected, converted, relocated, enlarged, structurally altered or moved on a lot so as to reduce the usable open area of such lot to less than that hereinafter specified by the regulations of that District.
- 2. To be considered usable, such open space shall be readily accessible and not be used for buildings or structures, parking and accessory uses and be of a size and shape which can be reasonably considered to provide for the amenities and necessities of light, air, play space, garden and the like. Crop, pasture and wooded land may be included in computing such open area.
- 3. No part of the open space provided for any building or structure shall be included as part of the open space required for another building, except as hereinafter provided for in a Planned Unit Development.

Section 17.03 5. C. 4.

4. (Amd. 2008-004) No portion of a public right-of-way or private platted road shall be used in the calculation of open space. For public roads that pass through properties (i.e. former mill tax roads or lake roads), the right-of-way designated for that roadway on the official highway width map for the Town, shall not be used in the calculation of the overall area of the parcel or used in the determination of open space. Lands on which there is an easement for private or public purposes shall be included in the calculation of the overall parcel area and evaluated as part of the open space requirement.

5. (Amd. 2008-004) At least 50% of the open space requirement shall consist of vegetation.

D. **Residential Density.** Residential density shall not exceed the density hereinafter specified by the regulation of that District in which the development is located, except as otherwise regulated by this chapter.

6. HEIGHT REGULATIONS. (created 2011-004)

A. **Height Regulations.** (Rev. 00-507a) There are two standards for regulation of the height of buildings and structures under this Code: base height and overall height regulations. All buildings and structures must comply with both regulations. The base height regulations are set forth in the regulations for each District. The overall maximum height regulation is set forth in this subsection.

Overall Maximum Height Restricted. Except as specifically provided at Section 17.04 5.F.4.b., 17.04 5.G.4.b., and 17.04 5.H.4.b., no building or structure shall be hereafter erected, converted, relocated, enlarged or structurally altered to a height in excess of that hereinafter specified below:

1. No building and zoning permit shall be issued for any principal building or structure with a greater overall height of 45 feet, as measured from the lowest grade along the perimeter of the building or structures to the highest point of the building or structure except as provided in this subsection.
2. No building and zoning permit shall be issued for any accessory building or structure with a greater overall height of 20 feet as measured from the lowest grade along the perimeter of the building or structure to the highest point of the building or structure except as provided in this subsection.

B. **Exceptions, No Plan Commission Approval Required.** The following shall be accepted from the height regulations of all Districts:

1. Chimney and flues;
2. Electrical transmission and distribution facilities;
3. Roof mounted television and radio receiving antennas not exceeding ten (10) feet in height from the roof and roof mounted licensed amateur radio operator antennas not exceeding ten (10) feet in height from the roof.

C. **Exemptions, Plan Commission Approval Required.** The following shall be exempted from the height regulations of all Districts, subject to the approval of the Plan Commission: Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, masts, free-standing towers, roof-mounted licensed amateur radio operator antennas exceeding ten (10) feet in height from the roof, aerial and necessary mechanical appurtenances.

Section 17.03 6. D.

- D. **Increase Permitted.** Subject to obtaining necessary Conditional Use Grants and the approval of the Plan Commission, providing all required offsets and setbacks are increased by one foot for each foot which such building or structure exceeds the height limit of the District in which it is located unless otherwise waived by the Plan Commission, the maximum height of any building or structure, other than those buildings and structures listed in subparagraph C. above, may be increased by not more than ten (10) feet and the height of any of the buildings or structures outlined in Subparagraph C. above may increase to any height.
- E. **Additional Requirements. (created 2011-004)**
1. No building and zoning permit shall be issued for any principal building or structure greater than 30 feet measured to the highest eave immediately above the lowest grade along the perimeter of the building or structure unless the Plan Commission has granted approval of the height increase to no more than 35 feet based upon consideration of the following factors:
 - (a). review and comments by the fire department
 - (b). consideration of obstacles that would prevent access to all sides of the building.
 - (c). location of the building or structure in relationship with other buildings or structures on site.
 - (d). location of upper decks and balconies
 - (e). length and/or percent of the building where the height to the eave is greater than 30 feet.
 - (f). installation of a fire sprinkler system

7. DRAINAGE REGULATIONS.

- A. **Adequate Drainage Required.** No building or structure shall be erected, converted, relocated, enlarged or structurally altered on land which is not adequately drained at all times nor which is subject to periodic flooding.
- B. **Obstruction to Drainage Prohibited.** The damming, filling, grading, redirecting or relocating or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural watercourse shall not be permitted, except with approval of the Plan Commission.
- C. **Diversion of Drainage Prohibited.** No person shall grade, fill, excavate or alter the existing topography or absorption characteristics of land by paving in such a manner as to cause drainage to run on adjoining lands, except along an existing natural watercourse or along a watercourse or drainage ditch approved by the Plan Commission.
- D. **Building Restricted Adjacent to Drainage Channel, Lake or Watercourses.** No building or structure other than a bridge, dam, boathouse or revetment subject to the Plan Commission approval shall be erected, converted, relocated, enlarged or structurally altered so that the lowest floor of the building is less than three feet above the ordinary high water line of such surface water drainage channel, lake or watercourse.
- E. **Preservation of Topography.** In order to preserve the natural topography as much as possible and in order to protect against danger and damage caused by man-made changes in the existing topography and to avoid unsightly and hazardous exposed earth sections, the following conditions shall be met:
1. No change in the existing topography or drainage courses on any land shall be allowed which would result in adversely altering the drainage or increasing any portion of the existing slope through fill and/or grading to a ratio greater than three horizontal to one vertical except as set forth in this subsection.

Section 17.03 7. E. 2.

2. (Rep. and Rec. 2006-007) Construction of retaining walls shall be regulated under section 17.06 4.C. of the Zoning Code.
3. Fill or grading considered by the Code Enforcement Officer to be necessary backfill and/or excavation for an otherwise permitted building or structure may be permitted by the Code Enforcement Officer as long as such fill or grading is accessory to such construction and does not create slopes greater than three horizontal to one vertical, does not extend to a distance greater than 20 feet from the foundation and does not divert runoff directly onto adjacent property or adversely affect adjoining property or roadside drainage.
4. Filling, grading or altering of existing topography may be allowed by the Code Enforcement Officer under any circumstance which does not alter the topography in a way which will adversely affect the surrounding land.
 - a. In making such a determination, the Code Enforcement Officer shall have the authority to determine the affect of the construction, fill or grading on surrounding property and shall require improvements and/or facilities as may be in the best interests of preserving the topography and drainage system and which will have the effect of lessening the impact on either upstream, downstream, or adjacent properties.
 - b. A grading plan must be submitted to the Code Enforcement Officer for approval and a permit to proceed may only be issued by the Code Enforcement Officer after such approval has been granted in writing. The plan shall consist of:
 - (1) A topographical survey made by a registered engineer or licensed surveyor showing existing elevations of the property and adjacent property to that being filled or excavated and showing the existing cross-sections, type of soil and drainage of the ground affected.
 - (2) A plan showing a typical cross-section of the proposed slope, riprap or retaining wall; the proposed drainage pattern; the protective fencing type of material used, method of construction, the establishment of vegetative cover, date of completion, seeding schedule and method of protection of surrounding land and water areas from erosion and sedimentation during construction, together with construction details in the event of a retaining wall.
 - c. The Code Enforcement Officer may issue a written permit to allow the requested filling, grading or altering of the existing topography. Any such approval shall be subject to any conditions of the Code Enforcement Officer including construction of silt fencing or screening.
 - d. In the case of a disputed question arising as to:
 - (1) The adversity or effect of the project on either the property owner, adjacent owners or the general public; or
 - (2) The denial of permission by the Code Enforcement Officer; or
 - (3) A dispute or question arising out of any condition imposed by the Code Enforcement Officer on any permission, said issue shall be submitted to the Plan Commission for resolution.

8. **SANITATION AND WATER SUPPLY REGULATIONS.**

A. **Safe Sewage Disposal Possible.**

1. No principal building or structure shall be erected, converted, relocated, enlarged, structurally altered or moved from one location to another unless it has been certified by the Code Enforcement Officer and Plumbing Inspector that it conforms to all Town ordinances and other governmental regulations applicable to sewage disposal systems and that satisfactory evidence has been submitted to show that suitable provisions for disposal of sewage is possible, and suitable area for a replacement system is available, based on the proposed use, on the lot if it is not served by an approved municipal or other State approved sewage disposal system.
2. While every attempt has been made, through control of minimum lot size, building location and plumbing standards, to insure that proper disposal of sewage will be provided on any lot, it is recognized that no such standard will completely insure adequate disposal in every situation. This section has been written for the purpose of giving the community the authority to require whatever additional provisions are necessary to prevent a sanitary problem from developing in a situation where the normal requirements will not insure proper sewage disposal.

B. **Approved Sewage Disposal System.** No principal building or structure shall be erected, structurally altered or relocated unless a sewer is installed running to an approved sewage disposal system designed and located in accordance with the Town ordinances and other governmental laws or regulations then applicable to sewage disposal systems or to an approved municipal or other State approved sewage disposal system.

C. **Outhouses Prohibited.** No outhouse or privy shall be hereafter erected or relocated, enlarged, structurally altered or reoccupied.

D. **Water Supply Required.** No occupancy and/or building and use permit shall be issued for a building or structure used for residential purposes unless provision is made for a safe and adequate supply of water in or within 300 feet of the building or structure or connection is to be made to an approved municipal or community water system.

9. **SPECIFIC REGULATIONS.**

A. **Demolition Permit.**

1. **Required.** All persons who demolish or cause to be demolished any building or structure or part of the same within the Town shall apply for and obtain a demolition permit from the Code Enforcement Officer prior to undertaking any steps to demolish the building or structure.
2. **Application.** An application for a permit to demolish all or part of a building or structure shall include the following information:
 - a. Name and address of the owner of the building or structure on date of application and, if different, on date of demolition.
 - b. Name, address and telephone number of the contractor(s) performing the demolition work.
 - c. Date upon which demolition is to commence.

Section 17.03 9. A. 2. d.

- d. Date by which demolition shall be complete.
 - e. A list of all hazardous waste and hazardous and toxic substances as defined by §§NR 181.12 and NR 158.03(4), Wis. Adm. Code contained in the building or structure; a statement as to whether the building or structure contains asbestos, as defined by §140.04(1)(a), Wis. Stats., and a detailed description of the method to be used in removing, transporting and disposing of any hazardous and toxic substances and asbestos.
 - f. A detailed description of how and where the waste materials resulting from the demolition will be transported and disposed of, including the description of the route to be used by trucks in hauling the waste.
 - g. A description of the method of demolition to be used.
 - h. A description in detail of all methods to be used to prevent water run-off and soil erosion from the site to neighboring properties and to prevent releasing unreasonable amounts of dust from the site.
 - i. Along with the application for permit for demolition, the applicant shall present a release from all utilities serving the property, stating their respective service connections and appurtenant equipment such as meters and regulators have been removed or sealed and plugged in a safe manner.
3. **Demolition.** The demolition shall be conducted in a manner that is safe and that does not adversely affect the environment.
4. **Burning of Buildings, Structures or Debris.**
- a. No building or structure shall be razed or demolished by burning without the written approval and supervision of the burning by the Fire Department. The Fire Department may, as it deems necessary, charge a reasonable fee for the supervision, equipment and manpower necessary to ensure public safety.
 - b. No materials from a razed or demolished building or structure shall be burned without the express written approval of the Fire Chief following inspection by the Fire Department. The Fire Department reserves the right to place conditions upon the manner of burning such materials and reserves the right to deny approval so as to ensure public safety. The Fire Department may, as it deems necessary, charge a reasonable fee for supervision, equipment and manpower to be provided.
5. **Clearing and Leveling Site.**
- a. The site of any demolition shall be properly cleared of debris, rubbish and pavement and shall be properly graded and leveled to conform with the adjoining grade of the neighboring property. When the site is graded and leveled, it shall be seeded, sodded or treated in some other manner acceptable to the Code Enforcement Officer so as to prevent blowing dust, dirt or sand. Excavations remaining after demolition shall be filled, graded and leveled off, not later than 30 consecutive days after demolition is completed.

Section 17.03 9. A. 5. b.

- b. Excavations from demolished buildings or structures shall not be filled with any materials subject to deterioration. The Code Enforcement Officer, upon notification by the permit holder, the owner or the agent, in writing and upon forms provided by the Inspector for that purpose, shall within 72 hours inspect each excavation or part thereof before filling. No person shall fill any excavation without inspection and approval of the Code Enforcement Officer. Voids in filled excavations shall not be permitted. The permit holder, owner or agent may retain the services of a certified, qualified municipal inspection service to obtain an opinion that approves filling of the excavation. Such opinion shall be deemed a sufficient approval by the Town if a copy of the opinion is delivered to the Town Clerk at least 48 hours before filling of the excavation commences.
6. **Removal and Disposal.** Removal, transportation and disposal of all hazardous waste, hazardous and toxic substances and asbestos shall be conducted in compliance with all applicable State, federal and local statutes, ordinances and regulations. The permit holder shall give the Code Enforcement Officer 72 hours' written notice prior to any removal, transportation or disposal of hazardous waste, hazardous and toxic substances and asbestos.
7. **Permit Fees.** Application for a demolition permit shall be accompanied by a permit fee as established by the Town Board by resolution from time-to-time.

B. Airport Safety Zone.

1. **Maximum Height.** No building or structure or object of natural growth, located within two miles of the boundaries of any airport, landing field or landing and takeoff strip and within a band 500 feet on each side of the centerline extended of any runway, shall hereafter be erected, altered or permitted to grow to a height above the elevation of the nearest point of such runway greater than 1/15 of the distance from the point.
2. **Control of Use.** No building, structure or land located within two miles of the boundary of any airport, landing field or landing and takeoff strip shall be used in a manner that produces a hazard to the operation of aircraft by reason of the emission of smoke, gas or other pollutants.
3. **Exceptions.** The aforesaid regulations shall not apply to growing field crops which are harvested at least once a year nor to fences not over five feet high.

C. Mobile Homes and House Trailers.

1. **Human Habitation Prohibited.** Unless stationed in a mobile home park, trailer court or campground approved by the Town Board under the terms of a conditional use permit, no mobile home, house trailer, camping trailer, camper unit whether or not truck mounted, buses or other self-propelled dwelling unit vehicles shall be used for the purpose of human habitation.
2. **Outside Storage.** Mobile homes, house trailers, camper trailers, camper units whether or not truck mounted, buses or other self-propelled dwelling unit vehicles may be stored on any lot provided that the unit is screened by a landscaped fence, wall or planting screen along the side abutting or fronting on a residential District.

Section 17.03 10. A.

10. FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS

A. Findings of Fact

1. The Board finds that Adult-Oriented Establishments, as defined and otherwise regulated by the Town in its Adult-Oriented Licensing and Regulation Ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the Town.
2. Based its review of studies conducted in Phoenix AZ, Garden Grove CA, Los Angeles CA, Whittier CA, Indianapolis IN, Minneapolis MN, St. Paul MN, Cleveland OH, Oklahoma City OK, Amarillo TX, Austin TX, Beaumont TX, Houston TX, Seattle WA, and the findings incorporated in *City of Renton v. Playtime Theaters, Inc.*, 475 U.S. 41 (1986), *Coleman A. Young v. American Mini-Theaters, Inc.*, 427 U.S. 50 (1976), the Board finds that there is convincing evidence that the secondary effects of Adult-Oriented Establishments include an increased risk of prostitution, high-risk sexual behavior, crime, and other deleterious effects upon existing businesses and surrounding residential areas, and decreased property values.
3. The Board intends to control the impact of these secondary effects in order to protect the health, safety, and welfare of the citizenry; protect the citizens from increased crime; preserve the quality of life; preserve the property values and character of surrounding neighborhoods and areas.
4. It is not the intent of the Board to suppress any speech activities protected by the First Amendment, but to enact a content-neutral ordinance which addresses the secondary effects of Adult-Oriented Establishments while providing an outlet for First Amendment protected activities.
5. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Town, it is the intent of the Board to prevent the concentration of Adult-Oriented Establishments within a certain distance of each other and within a certain distance of other specified locations which are incompatible with and would suffer from the secondary effects of Adult-Oriented Establishments.
6. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Board finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

B. LOCATION OF FIRST AMENDMENT PROTECTED ADULT-ORIENTED ESTABLISHMENTS

1. The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined and otherwise regulated by the Town, are entitled to certain protections, including the opportunity to locate in the Town. Therefore, if an Adult-Oriented Establishment License has been granted by the Town, and if all the requirements of this Section of the Zoning Code are met, an Adult-Oriented Establishment shall be an allowed use in the M-1 zoning district and shall be a prohibited use in any other zoning district. No other requirements of the Zoning Code need be satisfied, but for those required in order to obtain an Adult-Oriented Entertainment License from the Town.
2. Adult-Oriented Establishments shall be located at least 1,000 feet from:
 - a. any residential district line, playground lot line, or public park lot line;

Section 17.03 10. B. 2. b.

- b. any structure used as a residence, place of religious worship, public or private school, or Youth Facility as defined in the Town's Adult-Oriented Establishment Licensing and Regulation Ordinance;
 - c. any other structure housing an Adult-Oriented Establishment; any structure housing an establishment which holds an alcohol beverage license.
3. Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the above residential district boundary lines, to the lot line of any lot used for a park, playground, or the lot line of any structure listed in 2(b),(c) and (d), above.
 4. The measurements from a structure shall be taken from the farthest point a structure extends in the direction of the measurement, including overhanging roofs or similar projections.
 5. For Adult-Oriented Establishments located in conjunction with other buildings and clearly separate from other establishments such as in a shopping center, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
 6. For any Adult-Oriented Establishment located above ground level in a multi-story structure and clearly separate from other establishments within the structure, the distance measurements shall be taken from the ground floor public entrance/exit nearest the Adult-Oriented Establishment (excluding emergency exits).
 7. A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the location subsequent to the grant or renewal of its license of any of the establishments described in 2, above, within 1,000 feet of the licensed premises. This provision applies only to the renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.