

CHAPTER 11
TOWN OF LISBON ZONING ORDINANCE

SECTION 3 GENERAL PROVISIONS

No land shall be used, lot created, or structure erected where the lot, use or structure will result in a significant and unduly burdensome traffic impact, groundwater impact, capital facility impact, and/or where the land is unsuitable for such lot, use or structure by reason of flooding, concentrated runoff, inadequate drainage, adverse soil or rock formation, unfavorable topography or low bearing strength, erosion susceptibility or any other feature likely to be harmful to the health, safety, prosperity, aesthetics, and general welfare of the Town of Lisbon. The Town Plan Commission, in applying the provisions of this section shall, in writing, recite the particular facts upon which it bases its conclusion that the land is not suitable for certain uses. The applicant shall have an opportunity to submit evidence to the Plan Commission appealing such unsuitability or propose adequate mitigation if they so desire within 30 days of the decision being made. The applicant shall submit, in writing, a summary of such evidence or proposed mitigation, to the Town Clerk in accordance with the procedures established by the Plan Commission for placement on an agenda. Thereafter, the Town Plan Commission may affirm, modify, or withdraw its determination of unsuitability.

(a) Compliance

1. No structure, development, or part thereof, shall hereafter be used, located, relocated, erected, moved, altered, repaired, reconstructed, extended, enlarged, converted, structurally altered, or improved, and no land, water, or air areas shall be hereafter used or altered within the zoning jurisdiction of the Town of Lisbon without a building and/or conditional use permit, where changes are being proposed and without full compliance with the provisions of this ordinance and other local, county (including a zoning permit), state, and federal regulations.
2. No building permit for construction or development shall be issued within the unincorporated shoreland and floodland areas of the Town of Lisbon until the County Zoning Permit has been issued.
3. Statutory Exemption for Farm Drainage Ditches: Under Sections 87.30 (1m) and 281.31 (2m) of the Wisconsin Statutes, this ordinance does not apply to non-structural uses of lands (i.e., pasture, cultivation) adjacent to farm drainage districts if all of the following situations exist:
 - A. Such lands are not within the floodplain of a natural stream or river.
 - B. Those parts of the drainage ditches adjacent to these lands were non-navigable streams before ditching.
 - C. Such lands are maintained exclusively in non-structural uses.

Should a question arise as to the applicability of this section, an interpretation shall be sought as provided for under Section 38 (b) of this Ordinance or by the Wisconsin Department of Natural Resources. The submission of plans and supporting documentation shall be required to enable the DNR to make a finding to support the claim of exemption. Where farm drainage ditches exist and the agricultural uses are terminated, and the lands are changed to urban uses, this exception expires and the subject stream and shoreland and floodland areas shall fall under all provisions and the jurisdiction of the Town Zoning Ordinance and the Waukesha County Shoreland and Floodland Protection Ordinance.

However, regardless of the agricultural use of the land, any building and structure is subject to the provision of this Ordinance relative to size, location or other matters relating to building and structures.

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(b) Building, Occupancy and Use Permits, and Site Plans and Plans of Operation

1. Building, occupancy and use permits: No structure, land, or water, or part thereof, located in the Town of Lisbon, shall hereafter be located, erected, relocated, moved, reconstructed, altered, repaired, improved, extended, enlarged, converted, structurally altered, used, or occupied; and no non-conforming use shall be resumed, changed, extended, or granted conditional use status pursuant to Section 3 (n) of this ordinance until:
 - A. A Building, Occupancy, and/or Use Permit has been issued by the Zoning Administrator or the Town Building Inspector as required, certifying that such building, use, occupancy, or activity complies with the provisions of the Town's Zoning Ordinance and with the Town Building Code. Temporary Occupancy Permits shall not be issued. No approvals allowed under this zoning ordinance shall be construed to waive the requirement to obtain the necessary permits from the Zoning Administrator, Town Building Inspector, and/or any other local, county, state or federal agency.
 - B. A county zoning permit has been issued, where applicable, by the county zoning administrator, certifying that such activity complies with the provisions of the Waukesha County Shoreland and Floodland Protection (zoning) Ordinance.
 - C. A county sanitary permit has been issued, where applicable, by the county environmental health division unless municipal sewer is available in which case no sanitary permit is required.
 - D. A conditional use permit, where applicable, has been issued by the Town of Lisbon and/or county zoning agency, where applicable, certifying that such activity complies with the provisions of this ordinance and, where applicable, the provisions of the county's zoning ordinance.

Within shorelands, all land owners, state agencies and other governmental jurisdictions unless specifically exempted by Section 13.48 (13) Wisconsin Statutes, are required to comply with the provisions of this ordinance and the county's zoning ordinance. However, where the substantive terms and objectives of this ordinance and the county's zoning ordinance have been addressed and fulfilled by the Wisconsin Department of Natural Resources where concurrent (DNR and Town of Lisbon, and DNR and Waukesha County) jurisdiction with this ordinance and the county's zoning ordinance exists, so as to avoid duplication of effort, the terms of this ordinance and the county's zoning ordinance shall not be imposed. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation or other roads and highways as may be under federal jurisdiction or receiving federal aid, may be exempt pursuant to Section 30.12(4), Wisconsin Statutes.

2. Application for: Building, occupancy, and use permits shall be obtained from the Zoning Administrator or Town Building Inspector as required, or his or her designated deputy at the Town Hall as provided by Section 37. The application shall include, for the purpose of proper enforcement of this ordinance, the following data:
 - A. A statement by the applicant as to the intended use of the premises and of any existing or proposed buildings thereon.
 - B. A stakeout survey, an existing plat of survey, or an accurate map at the discretion of the Building Inspector for minor items such as pools, sheds and decks, of the property drawn to a scale that can be easily measured with an engineering scale, and properly dimensioned showing:
 - i. The boundaries of the property involved.

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- ii. The location of the platted centerline of any abutting streets.
 - iii. The location on the lot of any existing buildings, proposed additions, or proposed new buildings, including the measured distances between such buildings and from the lot lines and from the platted centerline of any abutting streets to the nearest portion of such building.
 - iv. The location of any existing structures, septic systems, or wells within fifty (50) feet of the boundaries of the property involved.
 - v. The proposed first floor elevation of any proposed buildings in relation to the existing and/or established grades of the lot, any abutting streets, the ordinary high water mark of abutting streams, rivers or lakes, and USGS Datum.
 - vi. The ordinary high water mark of any stream, river, or lake on which the property abuts and any other natural resource features including but not limited to the floodplain.
 - vii. The proposed location of private septic systems and private wells in areas not served by public sewage disposal systems and public water supplies and the location and results of soil borings and percolation tests.
 - viii. Final grades to USGS Datum.
- C. Where the use involves human occupancy or use, and where such use is not served by sanitary sewer, a county sanitary permit shall be required prior to issuance of the building permit. In addition, a plan of the proposed sewage disposal system shall require the certification of the Building Inspector or Plumbing Inspector that it conforms to all Town ordinances and other applicable governmental laws and regulations.
- D. Where the use involves human occupancy or use, and where such use is not served by a municipal water system, satisfactory evidence that a safe and adequate supply of water is to be provided, and the location of any well for that purpose shall be identified on the property.
- E. A fee, as may be established and periodically modified under Section 37 of this ordinance shall accompany each application for each permit. Such fee shall be paid by cash, check or money order to the Town of Lisbon.
- F. A recertification survey shall be submitted to the Town Building Inspector upon request.
- G. A complete set of building plans as required by the Town Building Inspector.
- H. A Grading Plan for all new residences to be approved by the Town Engineer.
- I. Any recorded deed restrictions applicable to the property.
- J. All stakeout surveys shall be prepared by a State of Wisconsin Registered Land Surveyor.

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3. Issuance: The zoning administrator, building inspector or his or her deputy shall issue Building, occupancy, and use permits after adequate investigation as to compliance.
 - A. Building permit: Provided the application is in order, and any building, occupancy, or use as proposed would be in compliance with the provisions of all Town ordinances and other applicable governmental laws and regulations, a building permit shall be issued upon such application, and a certification that such permit has been issued shall be posted in a prominent place on the premises during the period of any construction or other activity involved in readying the land or buildings for use/occupancy.
 - B. Occupancy and use permit: Within ten (10) days after the notification of the completion of the construction, alteration, conversion, relocation, repair, or improvement of a building, or of intent to commence a use, the building inspector or his or her deputy shall make an inspection of the premises and any buildings thereon; and, if such building, intended use, or proposed occupancy complies with the requirements of this ordinance, an occupancy and use permit shall be issued. Temporary Occupancy Permits shall not be issued.
4. Expiration: If within six (6) months of the date of issuance of a building permit, the proposed construction or preparation of land for use has not commenced, or if within twelve (12) months an occupancy and use permit has not been issued, or the construction has not been completed, said building permit shall expire, except that upon showing of valid cause, the Building Inspector may grant an extension of such permit for a period not to exceed six (6) months. Said permit extension shall be issued for the full fee and based upon full conformance with this Ordinance at the time of issuance of the new permit. If the construction has not commenced or is not completed after a total of eighteen (18) months, a new permit must be applied for and received subject to all fees and subject to the Ordinance in effect at the time of such new permit issuance. Previous incomplete work is not entitled to a new permit if the Ordinance no longer permits said use or structure or if changes to the Ordinance have been made subsequent to the original issuance of the permit.
5. Site Plans and Plans of Operation - Use Permits: Certain permitted uses as well as certain conditional uses require the submission of a Site Plan and Plan of Operation which provides a detailed description of the proposed use and serves as a basis for consideration prior to approval by the Town Plan Commission. The purpose of such a Site Plan and Plan of Operation review is to document the permit file, determine adequacy of the data submitted to describe the permitted and accessory uses and buildings proposed and document the plan and method of operation to enable a determination of compatibility with the Ordinance and consideration of approval. A Site Plan and Plan of Operation shall include the following information, as well as any other specific information requested by the Plan Commission or the building inspector to review the plans and determine compliance with the regulations of this Ordinance:
 - A. A Plan of Operation is a statement of operations, signed by the property owner and tenant or operator of the business or use, including a detailed description of the request, number of employees, hours of operation, and types of uses, products, or services offered.
 - B. A Site Plan and/or Plat of Survey of the property (in standard engineering or mapping scale which permits a clear representation of the property to a scale not to exceed two hundred (200) feet to one (1) inch), showing the location and dimensions of all existing and proposed buildings and structures and other attributes on the site, the location, number

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and arrangement of parking spaces or loading areas, lighting fixtures, easements, dumpsters, signs, landscaping and screening, and any other factors affecting the development of the site such as natural resource features. The Deputy Town Clerk should be consulted as to how many copies should be submitted for the Plan Commission meeting.

C. A stormwater management and erosion control plan consistent with the requirements of the Town Engineer (refer to Addendum F, the Storm Water Management and Erosion Control Ordinance, located in the Waukesha County Code, Chapter 14, Article VIII), and the Town Building Inspector. In addition, a grading plan, where required, shall be submitted to the same scale as the Site Plan, including existing and proposed contours at a maximum of two (2) foot vertical intervals for slopes less than twelve (12) percent and at no more than five (5) foot intervals for slopes twelve (12) percent or greater, existing and proposed features (i.e. berms, swales, ponds, ditches, storm sewers, inlets, etc.), vegetative plan, timetable for completion, the name of the responsible party and a letter of credit, if deemed necessary. The plan commission, town engineer, or building inspector has the discretion to request a grading plan in a scale different than the Site Plan in order to show with sufficient detail the contours and features of the property. The Deputy Town Clerk should be consulted as to how many copies should be submitted for the Plan Commission meeting.

D. Three sets of building plans (for the town file, engineer, building inspector), State approved if required, at a standard architectural scale, including exterior elevation drawings of all sides of all buildings proposed and interior floor plans.

E. A rendering of all signs visible from the exterior, along with the location, dimensions, overall height, illumination, and colors of the signs, which shall comply with this ordinance and Chapter 13, Signs, of the Town of Lisbon General Code of Ordinances (refer to Addendum A).

F. Lighting or photometric plan, including cut sheets of each type of exterior light fixture proposed or existing.

G. A detailed landscaping plan showing the location, sizes, and types of proposed vegetation, including seeding mixtures and the amount of topsoil and mulch, the timetable for completion, and any surfacing plan for parking and loading areas.

H. All Site Plan/Plan of Operation approvals shall be reviewed at least once every year at a time to be determined by the Town in order to ensure compliance with the terms and conditions of the approval.

I. The County Environmental Health Division shall approve of the use and its affect on the sewage system, if the site is not served by public sewer.

J. The Fire Department shall approve of the use in accordance with the fire code.

(c) Site Regulations

1. Building must be on a lot: Every building hereafter erected, altered, relocated, used or occupied shall be located on a lot as defined herein. Any building used for the principal use permitted in that district shall constitute the principal building and there shall be no more than one (1) principal building on a lot except with approval in the R-3, RM, PR, P-I, Q-1, business and industrial districts, and in planned unit developments, and where the permitted principal use in a zoning district is agricultural.

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No accessory building shall be constructed in any zoning district until the principal building is under construction or completed. Where the use of the land is principally for agricultural pursuits, and on parcels of thirty-five (35) acres or more, farm buildings may be allowed without the necessity of having a residence in place or under construction subject to the approval of the plan commission if it is determined that the building will not be contrary to the spirit and intent of the Ordinance and will not include the operation of a commercial boarding or riding stable for horses or agricultural pursuits specializing in the forced feeding of livestock, and where it is determined that the use of the building will be accessory to a farming operation which is consistent with the use provisions of the district in which it is located.

2. Buildings or Creation of Lots on a Private Street or Way: The intent of this provision is to discourage the creation of lots and placement of structures which do not have adequate access for emergency vehicles and equipment and to provide a right-of-way width which could accommodate a public right-of-way, if necessitated in the future. Subject to the approval of the Plan Commission, and the County Zoning Agency in the shoreland and floodland jurisdiction, one parcel may be created and a building may be permitted on that tract of land which does not abut or have direct frontage on a public street or officially approved way (frontage on a controlled access highway or a freeway where vehicular access is prohibited does not constitute access or frontage for the purposes of this provision) provided such tract of land is at least three (3) acres in area, or more if required by the zoning district, and has a minimum average width of two hundred (200) feet, or more if required by the zoning district, has access by a permanent easement at least thirty-three (33) feet in width to a public street or way, including utility service, will have a paved or gravel driveway width of at least twelve (12) feet, and does not conflict with the plans for the future development of streets in the area. Typical or normal lots with lot lines radiating from the terminus or center of a public cul de sac street are not affected by this provision as long as the minimum road frontage on a public street requirements are met. Only one lot other than the parent parcel abutting the public road is allowed where only a 33 foot easement is provided.

In the situation where more than one (1) principal residence or parcel is proposed on an access easement, the easement shall be at least sixty-six (66) feet in width and the paved or gravel drive shall be sixteen (16) feet in width. Not more than two (2) such parcels or buildings shall be permitted on an access easement. Where a driveway or access easement is shared, the users of the shared driveway or access easement shall draft and agree to an access and maintenance agreement to be approved by the Town Plan Commission and recorded in the Waukesha County Register of Deeds office by the property owners.

Where a lot has a narrow strip of land (often referred to as an ownership strip) as part of the lot (not an approved easement) extending from a public road to the main part of the lot where the building could lawfully be placed (flag lot), such narrow portion shall not constitute frontage or part of the three (3) acre lot size requirement unless the entire narrow strip of land is as wide as the required minimum average width for the district in which it is located.

3. No Undesirable Buildings, Structures, Junk, Materials, Vehicles:
- A. Junk, as defined in this ordinance, shall at all times be stored in an enclosed building thereby securing it from the view of the public and adjacent property owners. In addition, no building or structure, shall be constructed, erected, altered, converted, used, occupied, or relocated in a manner which shall be of such character as to adversely affect the nearby properties or general desirability of the neighborhood.

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The determination of undesirability shall be made by the Town Building Inspector or his or her deputy, in writing, and shall be based upon the nature, usefulness and/or undesirable appearance of articles or vehicles stored, and whether those objects have an adverse effect on surrounding or adjacent property. He or she shall also determine whether or not the design or appearance of buildings or structures are of such unorthodox or abnormal character as to have an adverse effect on the nearby property or general desirability of the neighborhood. If the determination involves a permit, the reasons for refusing a permit, or any conditions of approval shall also be provided in writing. The building inspector or his or her deputy may have the Town Attorney commence legal action to bring about conformance, if the building inspector or deputy's efforts to bring about conformance are unsuccessful. In the case of a dispute or question regarding the Building Inspector's determination, said question shall be submitted to the Town Plan Commission for resolution.

- i. This subsection is not intended to regulate property that is properly zoned, and is in compliance with a current Site Plan/Plan of Operation and/or Conditional Use Permit on file with the Town, for use as a junk yard, public and commercial disposal operation for noncombustible materials, salvage yard, waste disposal, or storage activity that is properly licensed.
 - ii. This subsection is not intended to regulate on the storage of idle, but operable farm equipment on farms greater than 35 contiguous acres, or the storage of inoperative or abandoned farm equipment on farms greater than 35 contiguous acres if the equipment is screened year around from the view of the public and adjacent property owners by a natural or man-made visual barrier.
 - iii. This subsection is not intended to regulate the orderly storage of firewood for fuel.
 - iv. The subsection is not intended to regulate the temporary storage of construction materials which are for use on the site for a project authorized by an active building permit and which are stacked, stored, and secured on the site in an orderly manner.
 - v. Vehicles are also regulated in Section 3 (j) and Section 4 (h) 10 of this ordinance, and the regulations contained therein may also be applied to enforce Section 3(c)3 of this ordinance as applicable.
- B. Site Maintenance: In order to protect the health, safety, and welfare of the residents of the Town of Lisbon and to maintain the desirability, amenities, and property values of the residential, commercial, and industrial areas of the Town, all property owners shall be responsible for maintaining their property in accordance with the following standards:
- i. General Maintenance: The exterior of every structure or accessory structure (except farm structures) shall be maintained free of broken glass, loose shingles, excessive paint peeling, crumbling stone or brick, loose boards, missing boards, loose insulation, or other conditions reflective of deterioration and inadequate or deferred maintenance.

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- ii. Litter Control: Every owner, occupant, or lessee of a building used for residential, recreational, institutional, commercial, industrial (including quarries), or public purposes shall maintain litter collection and storage areas in a clean condition and insure that all litter on the premises is properly containerized. The property owners and the prime contractors in charge of any construction site in the Town shall maintain the construction site in such a manner 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.
 - iii. Outside Storage: No unenclosed storage of junk as defined in this ordinance, materials, equipment, or supplies including, but not necessarily limited to, unused or junked appliances, furniture, lumber, bricks, cement blocks, cans, and containers, shall be permitted where such storage is readily visible from any public place or from any surrounding private property. Outside storage of certain vehicles may be allowed in accordance with Section 3 (j) of this ordinance.
 - iv. Lot Maintenance: At the time of application for a building permit for a new house or an addition to a residence, a landscape bond or letter of credit in the amount listed in the Fee Schedule Appendix included herein from the homeowner shall be submitted to the Town (pursuant to the procedures of 30.006 of the Building Code) to ensure that all areas of disturbance including, but not limited to, grading, seeding, and sodding operations are completed and established to the Town Building Inspector's satisfaction within twelve (12) months after the occupancy permit is issued. Grading shall be completed in accordance with the final grade specifications to alleviate standing water and which will not result in water problems on adjacent properties. For commercial and industrial property, the Town Engineer shall determine the amount of the landscape bond, and the amount of the landscape bond shall be proportionate to the work proposed.
 - v. Driveways located in a recorded subdivision shall be hard surfaced with material such as concrete or asphalt.
- C. In the event the Town determines non-compliance with Section 3 (c) 3 of this ordinance, enforcement shall be in accordance with Section 37 of this ordinance. Chapter 5, Nuisances, of the Town of Lisbon General Code of Ordinances, also included as Addendum B herein, may also be utilized by the Town of Lisbon to abate violations of this ordinance and enforce the provisions of this ordinance.
4. Street grade: Every building hereafter constructed, erected, altered, converted, relocated, used, or occupied shall be at a grade approved by the building inspector and his or her deputy as being in satisfactory relationship with the established street grades, or with the existing street grade where one is established, with particular consideration for proper drainage, safe vehicular access, and flood hazards.
5. Land Altering Activities/Disturbance and Preservation of Topography: In order to protect property owners from possible damage due to changes in the existing grade of adjoining lands, 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: (a) increasing any portion of the slope to a ratio greater than three (3) horizontal to one (1) vertical within a distance of twenty (20) feet from any property line, except with the

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approval of the Town Plan Commission; or (b) which would alter the existing drainage or topography in any way so as to adversely affect adjoining properties. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected from erosion as required in this ordinance (also refer to Addendum F and Section 3 (c) 11). In addition, the following regulations, unless exempted by Wisconsin Statutes or other sections of this Ordinance, shall apply:

- A. In floodlands, as defined in this Ordinance, onsite sewage disposal facilities are prohibited unless authorized specifically by another provision of this Ordinance. The placement of fill, excavation, and/or other land altering activities, other than those situations covered under the provisions of Section 3 (c) 5 below, may be allowed subject to conditional use approval pursuant to Section 4(h) 14 (Land Altering Activities) of this Ordinance where said fill, excavation, or land altering activities do not occur in a wetland as indicated on the final Wisconsin Inventory Maps for Waukesha County, except as may be permitted pursuant to Section 7 (c) of this Ordinance. If said fill or land altering is authorized by the Town Plan Commission and Waukesha County to take place in wetland and/or floodland by a conditional use, the land shall also be rezoned to an appropriate district in accordance with the procedures outlined in Section 35 of this Ordinance. Where and when authorized, these activities must not impede drainage, reduce the floodwater storage capacity of the floodland, or result in an increase regional flood height. The 100-Year Flood stage elevation standard is based on the assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.

When an alteration of the floodlands is allowed, said alteration shall not result in an increase in flood heights of 0.01 of a foot. Said increase shall be determined using contemporary and state of the art methods of determination and when any increase would result in an amount greater than 0.01 of a foot, said increase shall not be allowed and the rezoning not approved unless compensating storage capacity of the floodplain is provided in a manner which is not deleterious to other property or the quality of any wetlands.

Dredging and pond construction are also land altering conditional uses, where allowed, under Section 4 (h) 14, and may also require permits from the Wisconsin Department of Natural Resources and/or the U. S. Army Corps of Engineers.

- i. Any structure or building used or occupied for human habitation (seasonal or permanent), or which is to be erected, constructed, reconstructed, structurally altered, or relocated into the floodplain, and where the floodplain has been authorized to be filled pursuant to Section 4 (h) 14, shall be placed on fill with the finished surface of the lowest floor, excluding basement or crawl space, at or above the flood protection elevation. If any such structure or building has a basement or crawl space, the surface of the floor or the basement or crawl space shall be at or above the regional flood elevation and shall be floodproofed to the flood protection elevation so that floodwater cannot enter directly over the ground surface into such floor, basement or crawl space. A variance may be granted to allow any floor below the regional flood elevation if the ground surface around the subject structure is at or above the flood protection elevation for a distance at least 15' from, and completely around, the structure.

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- ii. For all uses under Subsection A:
 - a. Fill shall be not less than one (1) foot above the regional flood elevation;
 - b. Fill shall extend at such elevation at least fifteen (15) feet beyond, and completely around, the limits of any structure or building erected thereon.
 - c. Dryland access shall be provided. If existing streets providing access to the project site are at elevations that make compliance impractical, the town may permit new development and substantial improvements where access roads are at an elevation lower than the regional flood elevation, provided the town has an emergency government plan addressing this issue which has been approved by the County unit of emergency government and approved by the DNR, or the town has written assurance from the appropriate units of police, fire, and emergency services that rescue and relief can be provided by wheeled vehicles to the structure during regional flooding, taking into account the anticipated depth, duration and velocity of the regional flood event in the area, thereby protecting human life and health and minimizing property damage and economic loss.
 - d. Any requirements of the Waukesha County Shoreland and Floodland Protection Ordinance that are more restrictive shall apply.
- B. In shorelands, as defined by this ordinance, grading, clean fill disposal sites, topsoil removal, filling, alteration or enlargement of waterways, removal or placement of stream or lake bed materials, excavation, channel cleaning and clearing, ditching, drain tile laying, dredging, lagooning, soil and water conservation structures, and other land altering and disturbing activities are considered land altering conditional uses and must be approved in accordance with Section 4 (h) 14 (Land Altering Activities) of this Ordinance except as may otherwise be permitted in Section 3 (c) 5 below or Section 7 (c) 1. In addition, such uses may require a permit from the state agency having jurisdiction pursuant to Chapter 30 of the Wisconsin Statutes (WDNR) and, where applicable, a federal permit from the U.S. Army Corps of Engineers except as may be waived pursuant to Section 3 (b) 1 of this Ordinance. All such uses and activities shall be consistent with the uses permitted in the Conservancy District if they occur within that district.
- C. The construction of a retaining wall (stone, ties, brick or other material), as defined herein, shall be a minimum of 5 feet from the property line to allow for maintenance without crossing onto adjacent property. The plan commission may specifically authorize any retaining wall proposed less than five (5) feet from a property line. Retaining walls in excess of three feet in height from the existing grade require Town Plan Commission approval for location, height, building materials and aesthetics. A certified architect or engineer must design retaining walls four feet or more in height from the existing grade, and said plans shall be submitted for consideration with the permit application. No retaining wall shall be constructed in a manner, which would adversely affect surface drainage on adjacent property. Approved retaining walls require the issuance of a building permit. All retaining walls shall be set back at least seventy-five (75) feet from the ordinary high water

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mark of a navigable body of water or its floodplain, and outside of the conservancy/wetland district. If, upon review by the town engineer and the Waukesha County Planning and Zoning Division, it is determined that the retaining wall is necessary to abate a known and identified soil erosion and sedimentation problem, the wall may be allowed less than seventy-five (75) feet from the ordinary high water mark of a navigable body of water or its floodplain, but must still remain outside of the conservancy/wetland district.

Fill or grading considered by the zoning administrator/building inspector to be necessary backfill and/or excavation for an otherwise permitted structure may be permitted without the necessity of securing a conditional use permit as long as said fill or grading is needed for, and is accessory to, said construction, and does not create slopes greater than three (3) horizontal to one (1) vertical, does not extend to a distance greater than thirty (30) feet from the foundation in any direction, and does not divert runoff directly onto adjacent property or adversely affect adjoining property. In order to make such a determination, prior to conducting any land altering activities, the property owner shall submit a grading plan of existing and proposed grades on the subject lot, as well as on adjacent lands (extending a minimum of 50' onto the abutting property) where said accessory fill and/or grading is closer than twenty (20) feet to the common lot line. In addition, no portion of the slope shall be increased to a ratio greater than three (3) horizontal to one (1) vertical, within a distance of twenty (20) feet from the property line, except with the approval of the Town Plan Commission. In no case shall any slope exceed the normal angle of slippage of the material involved, and all slopes shall be protected against erosion (refer to Addendum F and Section 3 (c) 11). The grading plan shall include the existing and proposed topography, the existing and proposed driveways, buildings, septic systems, wells, and the existing and proposed drainage patterns. An as-built survey shall be filed with the Town Building Inspector upon completion of the work to ensure adherence to the grading plan.

Land altering activities extending greater than thirty (30) feet from the foundation in any direction may be allowed subject to the issuance of a minor grading permit as provided for in Section 3 (c) 5 without benefit of a conditional use permit unless the quantities and the area of fill and grading exceed those limits defined herein for minor grading, filling, and land altering activities. This provision excludes the area normally associated with septic system installation, backfilling around the foundation and grading within thirty (30) feet of the foundation as outlined above, and normal construction of new driveways or their repair or replacement in their existing location.

Land altering activities extending greater than thirty (30) feet from the foundation in any direction that are in excess of minor grading, filling, and land altering activities, as defined in this ordinance, shall secure a conditional use permit in accordance with Section 4 of this ordinance prior to commencing any land altering activities.

As outlined above, no fill or alterations of existing topography shall be allowed under any circumstances, which will alter the drainage or topography in a way that will adversely affect the surrounding lands. In making such a determination, the zoning administrator/building inspector shall have the authority to determine the effect of the construction or fill on surrounding property and require improvements

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and/or facilities as may be in the best interest of preserving the topography, drainage patterns, and the drainage system, and which will have the effect of lessening the impacts on either upstream, downstream, or adjacent properties.

In the case of a dispute or question arising as to the adversity or affect of the project on either the property owner, adjacent owners, or the general public, said question shall be submitted to the Town Plan Commission for resolution to the question. Land altering activities are also subject to a locally adopted and State mandated Storm Water Management and Erosion Control Ordinance (refer to Addendum F and Section 3 (c) 11) in addition to the requirements set forth herein.

Design Standards for Land Altering/Disturbance Activities

All Land Altering/Disturbance activities shall comply with the following Design Standards:

- i. For any land altering/disturbing activity proper erosion control measures shall be installed and maintained throughout the entire project and until the vegetation is established, and a Storm Water Management and Erosion Control Permit shall be issued, if required.
- ii. A grading plan meeting requirements of Section 3 (c) of this ordinance, prepared by the owner's professional engineer, landscape architect or architect, who shall be registered in the State of Wisconsin, shall be submitted to the Town and then reviewed by the Town Engineer. Minor grading permits are approved by the Town Building Inspector upon recommendation of the Town Engineer. Conditional Use Permits shall follow the process outlined in Section 4 of this ordinance.
- iii. A deadline for completion of the entire project shall be established. The Town Plan Commission must approve of any extensions to the deadline established.
- iv. No other work is authorized. All work shall be completed in accordance with the approved plans.
- v. No adverse drainage, runoff, erosion or sedimentation shall take place onto adjoining properties or to environmentally sensitive areas public or private roads and right of ways.
- vi. An As-Built plan/survey of the land disturbance prepared by the Owner's Professional Engineer shall be prepared and submitted to the Town Engineer within 30 days of the completion of grading and landscaping to assure compliance with the approved plan. If the applicant does not produce the required grading plan, the Building Inspector shall authorize the Town Engineer to produce an As-Built plan/survey of the land disturbance and charge the Owner as a "current service" for the cost of producing the plan. If the As-Built plan/survey does not comply with the approved plan, the work shall be corrected until it is in compliance to the satisfaction of the Town Engineer, or if determined to be acceptable by the Town Engineer, the As-Built plan/survey be approved administratively, or if part of a Conditional Use, be approved by the Town Plan Commission and any other agency having review authority over the project.

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- D. Land Alteration and Streambank and Shoreline Stabilization Structures (SSSS): Streambank and shoreline stabilization structures and minor grading, filling, and land altering activities as defined herein (excluding retaining walls and fill within seventy-five (75) feet of the ordinary high water mark and in the 100-Year Floodplain) may be permitted by the town building inspector in the shoreland and floodland areas without a conditional use permit, as long as the project is in conformance with best management practices, and when located outside of Conservancy/Wetland areas, but within the 100-Year Floodplain, and where the site is above the ordinary high water mark, subject to the following:
- i. Said project may be authorized through the granting of a permit by the town building inspector when the following standards are satisfied:
 - a. Submittal of a complete and accurate set of plans which include a contour map at a scale of not less than 1" = 200' at a contour interval of at least two (2) foot increments, a vegetation plan and schedule, the period of construction activity, the methods used during and after construction to provide protection from the forces of erosion and sedimentation upon adjacent land and waterbody, and how the project will relate to adjoining properties.
 - b. A determination is made that the project has no public impact on or will not adversely affect adjacent or surrounding properties and that the activity will serve to prevent erosion and sedimentation of the surrounding area on the adjacent waterbody.
 - c. The review and written approval, if necessary, of the Wisconsin Department of Natural Resources.
 - d. Entering into a stipulated agreement with the Town concerning the scope of work, type of material used, method of construction, final grades, re-establishment of vegetative cover, date of completion and any other items deemed appropriate.
 - e. The performance of such land altering activity must not impede drainage, reduce the floodwater storage capacity of the floodland, or raise flood stages. If an increase would result, compensating flood storage capacity shall be provided on the site. This is based on the assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream.

E. Landscape Berms

All berms, as defined in this ordinance, shall comply with all requirements of Section 3 (c) 5 and the following design standards. Any project that exceeds the requirements of Section 3 (c) 5 or the design standards below must submit a request for a public hearing with notice sent to all property owners within 300' of the subject property.

- 1. Landscape berms that are greater than three (3) feet above existing topography require Town Plan Commission approval.

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2. The top of berms within 50' of the property line shall have a maximum height of 8' above existing property line elevation or centerline elevation of abutting street pavement, whichever is greater. Beyond 50' from the property line, berms may increase in height by 1 foot for each additional 25' from the property line, to a maximum height of 12' above property line or abutting road centerline pavement elevation.
3. The toe (base) of the berm must be a minimum of 10' from all front yard, side yard and rear yard property lines.
4. Berms shall be undulating and staggered. The top of berm shall vary in height from maximum height to $\frac{2}{3}$ maximum height and back again, for every 100' along the top of the berm. High and low points must be at least 15' long. For every 100' of berm length at least two low points in the berm undulation are required. Side slopes of the berm must be 3 to 1 maximum and be mowable.
5. Berms shall be landscaped in accordance with a landscape plan approved by the Town Plan Commission. The plan shall include the installation and mature height and diameter of all vegetation, and the types of all vegetation used; a proposed timetable for installation, and seeding mixtures.
6. The berm shall be mowed and maintained on a regular basis similar to that of normal lawn maintenance, or as determined by the Town Plan Commission. Any vegetation that dies within 3 years of installation shall be replaced with the same or substantially similar materials and within an amount of time as specified by the Town Plan Commission.
7. If the berm cannot be completed and vegetated prior to October 1st of the calendar year, the area shall be properly mulched over the winter season until work can recommence the following spring.
8. No berm shall interfere with vision of adjacent roads, easements, or driveways nor be constructed within any public right-of-way or highway expansion area designated on the current Waukesha County Official Highway Width Map or within a Vision Easement.
9. The berm shall not adversely impact the existing drainage patterns in the area, or appropriate measures shall be taken to alleviate adverse drainage (swales, etc.).
10. The type of material used to construct the berm shall be approved by the Town Plan Commission.
11. A minimum of 4 inches of topsoil shall be used on the entire berm for revegetation purposes.
12. A minimum setback of 50' is required from all wetland, floodplain, and corridor areas.
13. Berms may extend across property lines with written permission of the adjacent property owner (maximum berm height shall be based on existing property line elevation prior to berm construction). Berms extending over property lines will

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require the granting of reciprocal easements over the berm area. In addition a maintenance agreement is required to be prepared and submitted to the Town Attorney for review and approval. Berm easement and maintenance agreement must be signed by all parties involved and recorded in the Waukesha County Register of Deeds Office. Easements must provide permission for the Town to implement the provisions of the conditional approval, including reimbursement for plan implementation expenses incurred by the Town of Lisbon.

14. A financial guarantee in the form of a cash deposit or letter of credit equaling 115% of the estimated cost of the grading and plant materials shall be submitted to the Town. Said financial guarantee will be released by the Town Board upon recommendation of the Town Engineer upon completion of the project in accordance with the conditional approval.

15. As a condition of the approval, the Town may require a deed restriction to run with the land, which provides maintenance requirements for the land disturbing activity.

6. Building restrictions: In the shoreland and floodland areas, the following building restrictions shall apply:

A. In floodlands:

- i. In floodland areas, as defined in this ordinance, no buildings of any kind shall be allowed except those that may be allowed in the C-1 conservancy/wetland or the EFD existing floodplain development district. Boathouses are not allowed in the Town of Lisbon (refer to Section 3 (r) of this ordinance). Structures not prohibited above shall meet the following requirements:
 - a. The structure, including any fill, roads and levees, shall not adversely affect the efficiency or the capacity of the floodway, the storage capacity of the floodplain, or increase flood heights based on the assumption that will be an "equal degree of encroachment" extending for a significant reach on both sides of the stream.
 - b. The structure shall have its lowest floor level (not including the basement or crawl space) no less than the flood protection elevation.
 - c. The structure shall not obstruct the floodway or channel of the stream.
 - d. The ground level surrounding the structure shall be elevated and filled to at least one (1) foot above the 100-Year Recurrence Interval Flood for a horizontal distance of not less than fifteen (15) feet from the outer face of the building walls unless said requirement is not possible, in which case, to an amount as close to the fifteen (15) foot requirement as is practical.
 - e. Any structure within the stream channel shall require a state permit pursuant to Chapter 30 of the Wisconsin Statutes and may require a federal permit pursuant to applicable federal regulations.

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- f. A registered professional engineer or land surveyor shall certify that the finished building elevations, floodproofing measures, and other flood protection factors were accomplished in compliance with the above provisions of this ordinance.
- g. The board of appeals may grant a variance from these regulations only if the structure will meet the standards set forth in Chapters NR115, NR116, and COMM 83 of the Wisconsin Administrative Code.
- h. Dam construction, operation, maintenance, and abandonment are uses requiring public hearing before the county zoning agency and town plan commission in accordance with Section 4 of this ordinance and may require permits from the Wisconsin Department of Natural Resources pursuant to Chapter 31 of the Wisconsin Statutes and from the U.S. Army Corps of Engineers pursuant to federal requirements.
- i. Any requirements of the Waukesha County Shoreland and Floodland Protection Ordinance that are more restrictive.
- ii. Land altering/disturbance such as the placement of fill, excavation, and other land altering activities in excess of Section 3 (c) 5 may be allowed subject to the issuance of a conditional use permit in accordance with Section 4 as long as said fill, excavation, or land altering activities do not occur in a wetland as indicated on the Final Wisconsin Wetlands Inventory Maps for Waukesha County or subsequently revised by hydraulic analysis and approved by the Army Corps of Engineers and/or the Department of Natural Resources. The performance of such land altering must not impede drainage, reduce the floodwater storage capacity of the floodland, raise flood stages by more than 0.01 ft. as regulated by NR116, or cause ponding. If an increase would result, compensating flood storage capacity shall be provided on the site. This is based on the assumption that there will be an equal degree of encroachment extending for a significant reach on both sides of the stream. Dredging and pond construction, where allowed, are also conditional uses pursuant to Section 4 (h) 14, and in addition may require a permit from the State Department of Natural Resources pursuant to Section 30.19 of the Wisconsin Statutes and, where applicable, a federal permit from the U.S. Army Corps of Engineers. All petitioners shall provide proof of plan submission, review, and either approval or waiver of approval from the Wisconsin Department of Natural Resources and the Army Corps of Engineers prior to the Town taking official action.

Where such modification is proposed, the following criteria shall apply:

- a. If the use of the altered area is contemplated to be changed as a result of the fill or excavation, the area shall be rezoned to an appropriate use category and a conditional use permit issued pursuant to the terms of this Ordinance. No increase in regional flood height greater than the standard set forth above in Section 3 (c) 6 A ii shall result from these activities.

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1. Criteria For Redelineation or Rezoning Floodplain Boundaries: Prior to redelineation of floodplain boundaries or the rezoning of any such areas, the applicant shall:
 - Submit adequate technical data to the Town who will submit such data to the Department of Natural Resources for review and concurrence on the effect of the proposed amendment on the height of the regional flood that no increase in the 100-Year Floodplain elevation will result.
 - Assure that the proposed amendments meet the purpose of Wisconsin Administrative Code.
2. Amendment Process: Where the area is to be altered or filled, and upon completion of the steps in the paragraph numbered 1 above, the Town shall meet all legal requirements for amending its zoning maps and/or zoning ordinances as needed and as established in NR116 of the Wisconsin Administrative Code.
3. Submission to the Department of Natural Resources for Approval: If the Town agrees to amend the zoning category and modify its zoning map, it shall submit these amendments and the plans for fill or alteration of the subject area to the Department of Natural Resources for approval pursuant to NR116. Prior to Department of Natural Resources approval, the applicant shall submit a final map to be certified by an engineer, that the fill or alteration, as approved by the Building Inspector, has been accomplished to the specifications set forth by the amendment approved by the Town.
 - b. The effect of rezoning, filling, and altering any floodplain shall be calculated by comparing the regional flood profile determined by the hydraulic floodway lines to the regional flood profile determined by assuming that the entire shallow depth flooding area (100-Year Floodplain) is not available to convey floodflows. Calculations shall conform to the standards contained in NR116 of the Wisconsin Administrative Code.
 - c. Where a floodplain or wetland alteration has been approved as outlined above, the jurisdiction of this Ordinance remains in effect within the subject area to the extent it was in effect prior to the activity being authorized, and all other appropriate restrictions of this Ordinance, except those which deal with floodplains and/or conservancy wetlands if the areas are removed from such floodplains or wetlands, remains in force.
 - d. Any requirements of the Waukesha County Shoreland and Floodland Protection Ordinance that are more restrictive.

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- B. In shorelands, as defined in this ordinance: All filling or dredging of the bed of navigable waters may take place only with a state permit pursuant to Chapter 30 of the Wisconsin Statutes and a conditional use permit from the county zoning agency and the town plan commission as detailed in Section 4 of this ordinance and a federal permit from the U. S. Army Corps of Engineers, where applicable.
- C. Within floodlands and shorelands, as defined in this ordinance: Utility facilities such as dams, flowage areas, transmission lines, pipelines, and water monitoring devices are permitted subject to regulations pursuant to this ordinance, Chapter 30 of the Wisconsin Statutes, and applicable federal regulations. Noncommercial docks, piers, wharves and bridges, culverts and river crossings of transmission lines, gas lines and other utilities are permitted subject to any pier or dock line regulations, or any other regulations which may be required pursuant to Chapter 30 of the Wisconsin Statutes, and applicable federal regulations. Commercial docks, dry or wet buoys, piers, moorings and wharves, are permitted subject to issuance of a conditional use permit under Section 4 (g) 17 or 22 of this Ordinance. Any requirements of the Waukesha County Shoreland and Floodland Protection Ordinance that are more restrictive shall also apply.
7. Agricultural uses: Sod farming, tillage, grazing, livestock watering and feeding, and application of fertilizers shall be prohibited unless conducted in accordance with good soil and water conservation practices promulgated in the USDA-NRCS Field Office Technical Guide. Crop production on lands with an erosion factor of three (3) or more on the USDA Soils Map is prohibited and such lands shall be planted with permanent vegetation. Where agricultural uses, including grazing, occurs next to navigable water, in accordance with sound land management practices, a buffer strip of permanent vegetation not less than one (1) rod (16 1/2 feet) wide, should be maintained where possible, to protect the bank of the waters from erosion and the effects of weathering, and the water itself from the effects of sedimentation and pollution.
8. Surface Water Withdrawal: Diversion or discharge for irrigation, processing, cooling, or other purposes are conditional uses requiring review and approval by the Town Plan Commission in accordance with Section 4 (h) of this Ordinance. The Plan Commission shall then advise the state agency having jurisdiction under Chapters 30 and 281 of the Wisconsin Statutes of its findings prior to the issuance of the required state permits, and federal permits as may be required by the U.S. Army Corps of Engineers.

When the substantive terms of this provision are met through the application of the Wisconsin Statutes, Department of Natural Resources Administrative Code, or the requirements of the U.S. Army Corps of Engineers, a separate action of the Plan Commission pursuant to Section 3 (b) 1 of this Ordinance is unnecessary.

9. Shoreland Cutting: Tree and shrubbery cutting and ground cover removal in the shoreland areas shall be regulated in accordance with the Waukesha County Shoreland and Floodland Protection Ordinance. For lands outside of the shoreland areas, vegetation may be removed, however it is recommended that accepted forest management and soil conservation practices are observed.

10. Drainage Regulations:

- i. In no case may a principal building be constructed, erected, converted, or relocated in an area zoned conservancy (including areas zoned EFD unless required approvals are

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obtained), or in an area considered to be one of the eight (8) types of wetlands (type 1-8) as described in Circular 39 of the Fish and Wildlife Service, U. S. Department of Interior published in 1956, and which are on record on the 1975 aerial maps of the Southeastern Wisconsin Regional Planning Commission. No principal building shall be constructed, erected, altered, converted, or relocated, and no below grade structures shall be expanded on newly created or existing lots that are not in compliance with the site drainage standards contained in the Waukesha County Storm Water Management and Erosion Control Ordinance, including all county technical procedures and forms used to enforce these standards (Chapter 14-342(c)) unless the Town of Lisbon imposes more restrictive requirements. The lowest floor, including any basement floor, shall not be less than three (3) feet above the highest seasonal ground water elevation except under the following circumstances:

- a. If a sealed sump crock with a water tight cover is used, the lowest floor may not be less than 18" above the highest seasonal ground water level.
- b. If a gravity outlet is utilized and a backup sump crock and pump area installed, the lowest floor may not be less than 12" above the highest seasonal ground water level.

In all cases where the separation is less than 3' the applicant shall record a hold-harmless agreement in favor of the town in the Waukesha County Register of Deeds office, prior to a Building Permit being issued. The Building Inspector or Town-contracted Engineer shall issue the Building Permit for separation from 3' to 12" when all of the above requirements have been met, however, separation that does not meet the above requirements or is less than 12" must request a waiver from the Town of Lisbon Plan Commission.

ii. All appeals or waivers shall be reviewed by the Town of Lisbon Plan Commission. For the purposes of this section, the highest seasonal ground water level is defined as the upper limit of the zone of soil saturation caused by underlying ground water at its highest level. Where groundwater limitations exist, subdivision plats and certified survey maps shall state, on their face, the lowest allowed floor elevation for any proposed principle structure, as needed to ensure compliance with the above noted site drainage standards. All basement elevations must comply with the subdivision plat or certified survey map master grading plan or with the master grading plan referenced on the subdivision plat or certified survey map. At least one soil boring shall be conducted at the house site in order to determine the soil conditions for the building, foundation, and/or basement. The building inspector may request, at the owners' expense, the advice and assistance of a licensed professional engineer specializing in soils engineering or other qualified person working on behalf of the town in fulfilling his or her duties pursuant to this provision. Building, drainage, grading or other similar plans may be required to determine compliance with this section. The town accepts no liability for construction activities involving groundwater limitations.

iii. In the event the applicant disputes the necessity for, or the adequacy of, the site drainage standards noted above, the matter shall be reviewed, and a determination made, by the Town of Lisbon Plan Commission. The applicant may also request a variance from

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the three (3) foot groundwater separation requirement for basements which shall be reviewed by the Town of Lisbon Plan Commission. In making their decision, the Plan Commission shall determine (1) how much of the basement shall be allowed to be constructed out of the ground, if any, (2) how much, and in what configuration, fill shall be allowed to be placed around the structure, and if minor grading or conditional use permits will be required, (3) if the building shall be allowed to have a basement at all, and (4) if development on the site should be prohibited. The determination of whether or not the building shall have a basement at all or whether or not the site should be developed shall be based on the recommendation from the licensed professional engineer specializing in soils engineering, and working on behalf of the town, at the owner's expense as noted above. However, in no case shall the separation requirement for basements (lowest floor) be less than one (1) foot.

iv. In the event a variance is approved, a gravity outlet shall be provided to the drain tiles of the building. The outlet must be above the 100-year flood elevation and be equipped with a back flow prevention device, and the drain to daylight must have a minimum slope of 1.04%, insulation, a rodent guard, and a clean out.

v. If the outlet is located in a roadside ditch, its invert must be a minimum of 18 inches above the ditch flow line. A sump pump is required with discharge to the surface as a redundant ground water removal system and the sump pump must be equipped with a sealed pump crock. An auxiliary power source of natural gas or propane gas fuel to a backup generator is recommended if groundwater separation is reduced to anything less than the one-foot requirement through the waiver process, and an auxiliary power supply is recommended in any instance noted above so the sump pump remains operative in the event of a power outage.

vi. All existing drain tile locations on or adjacent to property proposed to be developed, shall be identified, if known, and said information shall be provided to the Town Plan Commission and Town Board for review, and/or located on the preliminary subdivision plat or Certified Survey Map.

vii. Obstruction of drainage is prohibited. The damming, filling, relocating, or otherwise interfering with the natural flow of surface water along any surface water drainage channel or natural water course, shall not be permitted except with the approval of the Town Plan Commission and the Waukesha County Park and Planning Commission.

viii. Building is restricted adjacent to drainage channels or watercourses. No building other than a bridge, dam, or revetment subject to the aforementioned approval, shall be constructed, erected, altered, or relocated within 20 feet of the ordinary high water mark of such surface water drainage channel or natural watercourse, nor so that the lowest floor of said building is less than three (3) feet above the ordinary high water mark.

The Town of Lisbon shall not be held liable for adverse effects which may occur on any property resulting from high groundwater conditions in the area.

For the purposes of this section, in the Town of Lisbon, the datum plane used shall be mean sea level, 1929 adjustment.

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11. Site Protection: Any property disturbed with land altering activities as may be authorized through the issuance of a minor grading or a conditional use permit, shall be required to protect the disturbed land surface of the lot or building site that is susceptible to erosion while under construction and which is not occupied with buildings, dedicated parking areas, or other hard surfaced areas with suitable stabilization measures. The plan shall meet design criteria, standards, and specifications acceptable to the Town Engineer and the Building Inspector. These measures include, but are not limited to, seeding, sodding, mulching, filter fabric, silt fences, hay bales, and sedimentation basins. Said disturbed areas shall be permanently stabilized and continuously maintained with suitable vegetative cover or other approved landscape material, and shall be required to conform with the provisions of the provisions of the Waukesha County Storm Water Management and Erosion Control Ordinance #146-158, Addendum F of this ordinance, and the Uniform Dwelling Code for one and two family dwellings. To ensure performance, a financial guarantee in the form of a cash deposit or letter of credit, may be required by the Zoning Administrator/Town Building Inspector, Town Engineer, or the Town Plan Commission.

(d) Use Regulations

1. Uses Restricted: In any district, no building or land shall be used or occupied, and no building shall be hereafter constructed, erected, altered, repaired, changed, improved, extended, enlarged, converted, or relocated except in conformance with the regulations hereinafter established for the district in which the property is located, or as otherwise provided for in this Ordinance. Where a change in use, change of ownership or operator, or a new use of a building or premises is proposed in any Business, Industrial, Quarrying, or Public and Institutional District, or at the site of a legal non-conforming use or a conditional use, a Site Plan and Plan of Operation shall be prepared for review and approval pursuant to Section 3 (b) 5 of this Ordinance.
2. Accessory Uses and Structures: In any district, accessory structures, buildings and uses customarily incident to the permitted buildings, uses and structures in that district shall be permitted subject to such requirements as may be hereinafter designated for that district in which they are located and in accordance with Section 3(i)5. No pyramiding as defined herein shall be permitted on any lands fronting on navigable waters, except as may be specifically permitted accessory to a marina or resort, and which may be allowed under the terms of a conditional use permit for a planned unit development. No accessory building, use or structure shall be permitted that by reason of noise, dust, odor, appearance, lighting, traffic generation, smoke, fumes, dirt, vibrations, fire, explosives, pollution, or other objectionable factors creates a nuisance or a substantial adverse effect upon the property value or reasonable enjoyment of the surrounding property. These nuisance determinations shall also include, but not be limited to, incidents of apiary operations where there is bee stinging, bee swarming, or bees otherwise creating a disturbance. Such adverse affects may be required to be corrected or eliminated by such measures as are directed by Sections 3 c 3 and 37 of this ordinance; and Chapter 5, Nuisances, of the Town of Lisbon, Waukesha County, Wisconsin, General Code of Ordinances, also included as Addendum B herein.
3. Unclassified Uses: Any use not specifically listed as a permitted use or conditional use, shall be considered to be prohibited except as hereinafter provided. Where deemed appropriate, the Plan Commission shall have the authority to authorize uses not specifically enumerated herein (e.g., unspecified conditional use) under the terms of Section 4 (h) 28 of this Ordinance and shall state, in writing, the justification for allowing or denying said application for conditional use.
4. Additional Requirements: For any use or structure in any district, which becomes or is

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determined by the Plan Commission and/or Building Inspector to be hazardous, harmful, noxious, offensive, or a nuisance to the surrounding neighborhood, the owner or occupant may be required to correct, improve, or abate such conditions by such measures as may be mutually directed by the Plan Commission and the Building Inspector consistent with reasonable technology and economic practicality and in conformance with reasonable standards. Any building determined to be unfit for human habitation, or which may endanger the health, safety, and welfare of the public as may be determined by the Town Board after recommendation by the Plan Commission or Building Inspector may be removed pursuant to the procedures outlined by the Wisconsin Statutes.

5. Any residence whose design includes provisions, or is intended to be used, for more than one single housekeeping entity as defined herein, shall be considered a two family or a multi family dwelling as defined herein, and are allowed only as conditional uses as provided for in Section 4 of this Ordinance, unless permitted in the zoning district in which they are located.
6. Conditional Uses: These uses are subject to Plan Commission approval following a public hearing to determine acceptable project impacts and the imposition of appropriate conditions as provided in Section 4 of this ordinance.
7. Nuisance Uses: Any use, in any district, which becomes hazardous, harmful, noxious, offensive, or a nuisance to the surrounding neighborhood by reason of odors, lighting, smoke, fumes, dust, dirt, vibrations, noise, fire, explosives, pollution, appearance, traffic generation, or other objectionable factors may be required to be corrected or eliminated by such measures as are directed by Sections 3 c 3 and 37 of this ordinance; Chapter 5, Nuisances, of the Town of Lisbon, Waukesha County, Wisconsin, General Code of Ordinances, also included as Addendum B herein; and/or the Town Board or its authorized representative.
8. Permitted Uses: These uses are permitted by right subject to the provisions of this ordinance.
9. Principal Uses: These uses represent the main or primary use of property or structures as permitted by the regulations of the zoning district in which such use is located.

(e) Sanitary Regulations

1. No building, structure, area, or premise shall be erected, repaired, changed, improved, extended, enlarged, converted, constructed, altered, located, or maintained for human occupancy, use, or assembly without adequate facilities for the sanitary and safe disposal of all human excreta together with all liquid and solid wastes that could be hazardous to the public health and safety or create objectionable nuisance conditions. Certification by the Town Building Inspector or Plumbing Inspector that the building conforms to all Town ordinances and other governmental laws or regulations applicable to sewage disposal systems, and that satisfactory evidence has been submitted to show that suitable provisions for sewage disposal, based on the proposed use, is possible on said lot if it is not served by an approved municipal or other state approved sewage disposal system.

No principal building shall be erected, repaired, changed, improved, extended, enlarged, converted, constructed, altered, relocated, occupied, or used, unless an approved septic system is installed with sewer running to a septic tank designed and located in accordance with the Town ordinances and other governmental laws or regulations applicable to sewage disposal systems, or to an approved municipal or other state approved sewage disposal

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system. Such facilities must fully comply with the provisions of the Waukesha County Community Health Code.

2. No building permit shall be issued until a safe and adequate water supply and sewage disposal system is assured and until after the County sanitary permit has been issued. No occupancy and use permits shall be issued for a building used for residential purposes unless provisions have been made in accordance with the requirements of the Waukesha County Community Health Code.
3. Outhouses prohibited: No outhouse or privy shall be hereafter erected.
4. Sewer Reductions – a reduction in Lot Size, Lot Width, Offset, Road Setback, Open Space and an increase in Floor Area Ratio: In the case of any lot having municipal sewer, or a municipally approved communal sewage system or water system available at the site, and where such service would be provided prior to any occupancy of such lot, the Plan Commission may approve the reduction of the lot size, lot width, open space, offset, and road setback requirements applicable to such lot, and may approve an increase in the floor area ratio, after public hearing, unless otherwise stated in the zoning district. In making the decision, the Plan Commission shall give particular consideration to the following:
 - A. The suitability of soil, terrain, and groundwater table conditions, and the practicality of providing municipal sewer or water service to the parcel.
 - B. The effect of any reduction in the lot size, lot width, open space, road setback, and offset requirements, and the increase in floor area ratio requirements on the character and value of surrounding development.

The maximum amount of reduction in the lot size, lot width, open space, offset, and road setback requirements or the maximum amount of increase in the floor area ratio of individual lots shall not exceed 30% of that required by the district in which said lot is located. The more restrictive of the above stated requirements and those stated in the applicable zoning district regulations shall apply. Where lands are to be developed as a planned unit development and are to be served with public sewer, the density may only be increased by a total of up to 30%. The planned unit development density bonus and the sewer reduction provisions cannot both be utilized to further increase density beyond 30%.

(f) Water Performance Standards

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, and waters shall hereafter, in addition to their use, site, sanitary, and floodland and shoreland regulations, comply with the following performance standards:

1. 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 (including, but not limited to, groundwater) 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.
2. No activity shall withdraw water or discharge any liquid, gaseous, or solid materials so as to exceed the minimum standards and the application of those standards set forth in Chapters

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NR102, 103 and 104 of the Wisconsin Administrative Code, and applicable standards of any federal agency for all interstate and intrastate surface waters of the Town of Lisbon.

3. The following water quality standards, as set forth in Chapter NR102 of the Wisconsin Administrative Code, shall be maintained:
 - A. Minimum standards.
 - B. Recreational standards-full body contact recreational uses.
 - C. Fish and aquatic life.
4. Water supply required: No occupancy or use permit shall be issued for a building used for residential purposes unless provisions are made for a safe and adequate supply of water in or within 300 feet of said residence, or a connection is to be made to an approved municipal or community water system.

(g) Building Location

Purpose and Intent: The purpose and intent of regulating building and structure location is as follows:

- To require the provision of adequate physical separation between uses to minimize conflict.
- To promote cluster development and other internally oriented living, shopping, and working environments, and to discourage strip development, in an effort to provide diversified and balanced growth.
- 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.
- To allow exposure to optimum amounts of light, air, and ventilation.

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- To require the provision of a buffer zone between noise-intolerant land uses (e.g. residences, nursing homes, day care centers, schools, churches) and adjacent streets or highways to effectively attenuate noise, and buffer such developments from the pollution and hazards attendant to vehicular traffic.
- To provide vision triangles for safe visibility and traffic movement at all public intersections.
- To attenuate noise, odors, fumes, and dust generated by land use before they infringe upon adjacent land uses.
- To provide adequate area for snow removal.
- To insure adequate separation between pedestrian and vehicular circulation.
- To provide adequate area to detain, retain, and facilitate surface drainage.
- To protect and preserve the quality and quantity of groundwater resources.
- To prevent development which may result in unacceptable non-point source pollution.

1. Setbacks

- A. Base setback lines, from which building setbacks shall be measured, are hereby established for all streets and highways in the Town as follows, unless otherwise specified by action of the Town Board and the County DPW.
- i. On all streets or highways for which the ultimate width has been established by the Highway Width Ordinance of Waukesha County, the base setback line shall be located at a distance from the centerline equal to one-half such established width as designated on the "Established Street and Highway Width Map of Waukesha County", unless otherwise excepted in this ordinance.
 - ii. On all other streets, which shall be designated as "local streets or town roads", the base setback line shall be at least thirty-three (33) feet from the centerline of such street, or sixty (60) feet from the center point of a cul-de-sac unless specifically designated otherwise by action of the Town Board, unless otherwise excepted in this ordinance.
 - iii. When a lot abuts a frontage road, the base setback line shall be located at a distance from the centerline of the frontage road equal to one-half the platted right-of-way width of said frontage road.
 - iv. Such setback lines shall be parallel to and measured at right angles to the centerline of the street, highway, or frontage road.
 - v. There shall be a required setback equal to the offset requirement of the district in which the property is located, from a private right-of-way and/or easement providing ingress and egress to the subject land or other lands, unless such private right-of-way is considered a mill tax road, in which case the normal road setback requirements contained in this Ordinance shall apply.

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- vi. For roadways providing access to lands zoned M-1 or M-2, the base setback line shall be thirty-five (35) feet from the centerline of the street.
- B. Vision setback lines at the intersections of public streets or highways, and of a street or highway with a railroad where the grade is not separated, are hereby established as follows:
- i. Across each sector between the intersection of a street or highway with a railroad, a vision setback line shall be established by a straight line, connecting points on the base setback line and the railroad right-of-way line, which points are located one hundred twenty (120) feet from the intersection of the base setback line and the railroad right-of-way line.
 - ii. Across each sector between intersecting streets or highways, one (1) or more of which has an established width of one hundred (100) feet or more, a vision setback line shall be established by a straight line connecting two (2) points on the intersecting base setback lines, which points are located sixty (60) feet distant from the intersection of said base setback lines.
 - iii. Across each sector between any other intersecting streets a vision setback line shall be established by a straight line connecting two (2) points on the intersecting base setback lines, which points are located thirty (30) feet distant from the intersection of said base setback lines.
- C. No principal or accessory building shall be hereafter constructed, erected, structurally altered, horizontally added to, relocated or placed so that any portion thereof, including roof overhangs, is closer to the base setback line than the setback distance specified by the regulations for the district in which such building is located except as specified here-in-after:
- i. If there is a building which is non-conforming with respect to road setback, with a similar use as the proposed building, located on an adjacent parcel on one side of the proposed building or within two hundred (200) feet of the proposed building and located on the same side of the street and on a similar plane, the average of the road setback of that existing building of similar usage and the required minimum road setback (50') shall apply.
 - ii. If there are two (2) buildings, which are non-conforming with respect to road setback, with similar uses as the proposed building, located on adjacent parcels on each side of said building or within two hundred (200) feet of the proposed building and located on the same side of the street and on a similar plane, the average of the road setbacks of those existing buildings of similar usage shall apply.
 - iii. In the case of a proposed addition to an existing building that has less than the required road setback, the average of the road setback of such existing building and the lesser of the required road setback (50') or the existing setback of the closest similarly used building within 200 feet of the subject property and located on the same side of the street and on a similar plane, shall be used to determine the required road setback for the proposed addition.

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- iv. The property is served with public sewer, and receives a sewer reduction in accordance with the sewer reduction provisions outlined in Section 3 (e) 4 of this ordinance.

- D. No other structures of any kind, except necessary highway and traffic signs, public utility lines, fences, rural mailboxes, and those signs permitted in a residential or agricultural district shall be hereafter constructed, erected, altered, relocated, or placed within such base setback area. Monuments and entrance gates are structures which require a building permit and shall be located at least ten (10) feet from the base setback line and shall not restrict safe access and visibility of the intersecting drive and the road and shall be subject to review and approval by the plan commission and the building inspector and the applicable municipality having jurisdiction over the road or highway.

- E. In the vision setback area, no structure of any kind shall be permitted which exceeds a height of two (2) 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.

- F. Additions to and replacements of existing structures may be made within the established road right-of-way as set forth by Section 3 (g) 1 A of this Ordinance, subject to approval of the Town Board and the Board of Appeals, provided the owner records, with the Waukesha County Register of Deeds office, a deed restriction, approved by the Town Board, to the effect that the owner will remove all new construction, additions, and replacements erected after the adoption of this Ordinance at his or her expense, when said right-of-way is necessary for the improvement of the street or highway.

- G. In all cases where any of the highways for which setback lines are established by this Ordinance are located on municipal boundaries, such establishment shall apply only within the Town.

- H. On corner lots of record, as of the date of adoption of this Ordinance (July 14, 1958), the effect of the setback regulations shall not reduce the buildable width of such corner lots to less than thirty (30) feet. Where such reduction would result in an area narrower than thirty (30) feet after applying the offset reduction, the Zoning Administrator shall have the authority to modify the setback or offset provision to the extent necessary to minimize the encroachment on both the offset and setback standard while maintaining the thirty (30) feet area required herein.

- I. Every structure, except boathouses and any other structure excepted from shore setback by another section of this Ordinance, shall have a shore setback of at least seventy five (75) feet from the ordinary high water mark of navigable waters, the one-hundred year floodplain, and/or the conservancy district, whichever distance is greater, except:

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- i. Boathouses may be permitted within fifty (50) feet of the ordinary high water mark of a navigable body of water or a Conservancy District boundary line, but not closer than five (5) horizontal feet from the ordinary high water mark, or within a wetland or 100-year floodplain area, or within a floodway. However, new boathouses are prohibited in the Town of Lisbon.
- ii. Boat hoists and piers may be erected on the bed of navigable waters pursuant to Chapter 30 of the Wisconsin Statutes and Section 3 (c) 6 C of this Ordinance.
- iii. Under the authority of Section 59.692 (1v), 2001-2002 Wisconsin Statutes, also known as the “Gard bill”, the building inspector may grant a building permit and the County may grant a zoning permit for a structure that extends closer than seventy five (75) feet to the ordinary high water mark of a navigable body of water if all of the following requirements are met, but in no case is a structure exempt from the shore setback requirements from the Conservancy District boundary line:
 - a. The part of the structure that is nearest to the water is located at least thirty five (35) feet landward from the ordinary high water mark.
 - b. The total floor area of all existing and proposed structures in the shore setback area of the property shall not exceed two hundred (200) square feet. In calculating this square footage, boathouses shall be excluded.
 - c. The structure that is subject to the request for special zoning permission has no sides, or has open or screened sides.
 - d. The building inspector shall review a plan submitted by the applicant which shall be subject to the building inspector’s approval and which will be implemented by the owner of the property to preserve or establish a vegetative buffer zone that covers at least seventy (70) percent of the shore setback area that is within 35 feet of the water. The building inspector is authorized to require implementation of the vegetative buffer plan prior to the issuance of the building permit for the structure.
- iv. A retaining wall may be allowed if the building inspector determines that the retaining wall is necessary to abate a known and identified soil erosion and sedimentation problem. A retaining wall shall be set back at least seventy five (75) feet from the ordinary high water mark of a navigable body of water and outside of the conservancy district.
- v. A single stairway or walkway, determined by the building inspector to be necessary for access to a lake, pond or river, shall be permitted to have a shore setback of less than seventy five (75) feet provided the width of the stairway or walkway does not exceed three (3) feet, and said stairway or walkway shall not include platforms larger than 3 feet by 3 feet, benches, planters, or similar items.

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- vi. Where there is an existing pattern of development with principal buildings having shore setbacks less than seventy five (75) feet from the ordinary high water mark of a navigable body of water or the Conservancy District boundary line, the setback requirements for new principal buildings, or additions to the existing principal building, or structures immediately adjacent thereto (such as decks or patios) shall be allowed to be reduced in accordance with the following setback averaging formulas. However, in **no** case shall the required minimum shore setback from the ordinary high water mark or Conservancy District boundary be reduced to less than thirty (30) feet:
- a. If there is a principal building which is non-conforming with respect to shore setback with a similar use as the proposed building and located on an adjacent parcel on one side of the proposed building and within two hundred (200) feet of the proposed building, the average of the shore setback of that existing building of similar use and the required minimum shore setback shall apply.
 - b. If there are two principal buildings that are non-conforming with respect to shore setback with similar uses as the proposed building and located on adjacent parcels on each side of the proposed building and within two hundred (200) feet of the proposed building, the average of the shore setbacks of the two existing buildings of similar use shall apply.
 - c. In the case of a proposed addition to an existing building which has less than the required shore setback, the shore setback of the addition shall be calculated by using the average of the existing building and the shore setback of an existing building with a similar use as the proposed addition if it is located on the adjoining parcel on the same side as the proposed addition and within two hundred (200) feet of the proposed addition.
 - d. In the case of a proposed addition to an existing building that has less than the required shore setback, if there are not similar uses on either adjoining parcels, the shore setback of the addition shall be calculated by the average of the existing building and the required minimum shore setback.
 - e. The effect of the shore setback regulations in combination with the road setback regulations shall not reduce the buildable depth of such lot to less than thirty (30) feet. Where such reduction would result in a depth less than thirty (30) feet after applying the shore setback and road setback averaging formulas, the building inspector shall have the authority to modify the road setback, shore setback, and offset provisions to the extent necessary to minimize the encroachment on the offset and setback standards while maintaining the thirty (30) foot depth.

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- f. In applying these shore setback averaging formulas to a proposed principal building or addition to a principal building, the shore setback measurements shall be taken from other principal buildings only, and the measurements shall not be from any immediately adjacent structures, such as decks or patios.
- g. In applying these shore setback averaging formulas to a proposed structure, such as a deck or patio, which is immediately adjacent to the principal building, the shore setback measurements may be taken from other principal buildings or immediately adjacent structures, such as decks or patios.
- vii. A principal building, an addition to a principal building, or a deck or patio immediately adjacent to a principal building may be located as close as fifty (50) feet from the Conservancy District boundary if it is in conformity with the required shore setback from the ordinary high water mark and if the existing natural ground elevation adjacent to the lowest level of the principal building, including an exposed basement, is at least three (3) feet above the one-hundred year flood plain elevation or the ordinary high water mark of the conservancy or wetland area.

- J. Retaining walls do not need to meet the road setback requirements of the individual zoning district. However, they do need to be at least 10' from the base setback line as required in Section 3 (g) 1 D.
- K. Maintenance and use of setback areas: Any such required setback 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.

2. Offsets

- A. No principal or accessory building shall be hereafter constructed, erected, horizontally added to, relocated, placed, or structurally altered so that any portion thereof, including roof overhangs, is closer to any side or rear lot line than the offset distance hereinafter specified by the regulations for the district in which such building is located, with the following exceptions:
 - i. (reserved)
 - ii. In the case of a lot of record, which has a minimum average width less than the required minimum average width of the district in which it is located, the required offset for the principal structure from a side lot line may be reduced proportionately to the ratio between the actual average width and the required minimum average width, but not less than ten (10) feet, except in accordance with Section 3 (e) 4, or as may be permitted within an approved Multiple Family or Planned Unit Development.

Example: $\frac{\text{Actual Average Lot Width}}{\text{Required Minimum Average Lot Width}} \times \text{Required Offset} = \text{Reduced Offset}$

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- iii. Offsets for detached accessory buildings exceeding two hundred (200) square feet in area on lots of one hundred and twenty (120) feet in width or less may be reduced to an amount equal to the proportionate amount between the actual width and one hundred and twenty (120) feet and not less than five (5) feet, even when consideration is given to Section 3 (e) 4. However, no detached accessory building shall be located closer than ten (10) feet to any structure used for residential purposes, as measured between overhangs.
- iv. Offsets for buildings housing animals including, but not limited to, livestock, fur-bearing animals, pigeons, swine, goats and poultry, shall be not less than fifty (50) feet from an adjacent property line. This does not include doghouses housing normal and usual household dogs (e.g., non-commercial in nature).
- v. When an existing detached accessory structure lies on a lot and closer than five (5) feet of the common lot line, a new detached accessory structure on the adjacent lot may be located the same distance from the common boundary as the existing detached structure on the neighboring lot, as long as the two structures are within ten (10) feet of each other. In such a case, the new detached accessory structure shall contain a firewall sufficient to meet the one-hour fire rating contained in the building code. However, unless a common wall with a one-hour fire rating is constructed, and with agreement of both property owners, the building sidewalls shall be no closer than three (3) feet in order to accomplish proper maintenance. A deed restriction shall be recorded in the Waukesha County Register of Deeds office prior to issuance of the building permit prohibiting the construction of fences between said buildings and permitting maintenance of said buildings from adjacent properties.
- vi. On any parcel, one detached accessory building that is less than two hundred (200) square feet in area may be located ten (10) feet from the side lot line unless otherwise excepted under any other provision.
- vii. In the case of an extension or addition of a structure into the minimum offset area, and where such extension would not extend closer to the side lot line than the existing structure to which it is attached, a Variance may be granted by the Board of Appeals to allow such an extension or addition as long as said extension or addition does not encroach closer to the side lot line than an existing structure to which it is attached.
- viii. Offsets on decks and patios may be reduced to 60% of the distance between the principal structure and the lot line, otherwise required for the principal structure, but shall in no case be located closer than five (5) feet of a lot line, even when consideration is given to Section 3 (e) 4.
- ix. Retaining walls do not need to meet the offset requirements of the individual zoning districts, if they comply with the provisions of Section 3 (c) 5 of this Ordinance.

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- x. For accessory buildings and structures on lots more than two acres in size where the side of the building or structure adjacent to the nearest side and/or rear lot line is more than fifty feet in length, the offset otherwise required shall be increased one foot for every foot the side of the building or structure exceeds fifty feet in length. If the lot is not of sufficient size to meet this requirement from the side lot lines and the rear lot line, then the size of the building or structure shall be reduced.

- B. Where a lot abuts a zoning district boundary line, the offset from such line in the district of less restrictive use shall be not less than that required for the district of more restrictive use.

- C. In the case of commercial or industrial use structures the offsets may be modified as follows:
 - i. Two (2) or more buildings on adjoining lots may 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 type of buildings the applicable offset requirements shall be complied with.

 - ii. The required offset may be reduced on one (1) side of a structure provided the offset on the other side is increased by the equivalent amount, and provided the owners of any property adjoining the area of reduced offset record a deed restriction with the Waukesha County Register of Deeds office stipulating that no building shall be erected on said property so as to reduce the combined offset in such case to a distance less than that resulting from the normal application of the minimum offset requirements to both properties, except as permitted under paragraph 2.A. above.

- D. Maintenance and use of offset areas: Any such required 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.

- E. Accessory building location: No detached accessory building shall be hereafter constructed, erected, structurally altered, horizontally added to, relocated or placed on a lot so that any portion thereof, including roof overhangs, is offset closer than ten (10) feet to the principal building on said lot.

- F. Driveway culvert offset: Where a residential property is required to have a culvert, at the point where the driveway enters the property, the culvert shall be placed no closer than five (5) feet to an adjacent property line.

(h) Height Regulations

- 1. Maximum height: In any district, no building or structure shall be hereafter constructed, erected, structurally altered, relocated, or placed on a lot so that any portion thereof exceeds a height in excess of that hereinafter specified by the regulations for that district, except the maximum height of any structure or building may be increased by not more than ten (10) feet, provided all required offsets and setbacks are increased by one (1) foot for each foot which said building or structure exceeds the height limit of the district in which it is located, and as provided in subsection 2 below.

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2. Exceptions: The following shall be excepted from the height regulations of all districts:
- A. Chimneys and flues.
 - B. Electrical transmission and distribution facilities.
 - C. Subject to approval of the Plan Commission: Cooling towers, elevator bulkheads, fire towers, monuments, penthouses, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless mass communication or mass radio, television, or satellite receiving/broadcasting towers, masts, aerials, antennas, or dishes and their necessary mechanical appurtenances and facilities, solar collectors, windmills or other wind generating structures. In making their determination, the Plan Commission shall consider the size of the property relative to the height of the structure proposed as to whether or not the structure should be approved.
 - D. Privately owned (ham) radio and residential/personal television towers, receivers, and antennas, provided such towers, receivers, and antennas are intended for the use of appropriately licensed amateur (ham) radio operators or residential/personal television users, shall not be erected or structurally altered to a height in excess of thirty five (35) feet, and in no case shall the overall height exceed the fall line distance as measured in a straight line to the nearest property line.

(i) Area Regulations

1. Floor area

- A. Any building 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 is located. Such minimums are stated in terms of the minimum total floor area required for a building and that portion of the total that must be provided on the first floor level, at a minimum. Such minimum total shall be increased by two hundred (200) square feet for any building not having a basement of at least three hundred (300) square feet in area.
- B. The maximum total floor area of the buildings on a lot shall not exceed that permitted under the floor area ratio as hereinafter specified by the regulations for the district in which such building is located. The finished or unfinished basement or exposed basement area used for living space or any other use shall not be computed in the maximum floor area ratio requirements, but the floor area of an exposed basement may be used in computing the minimum floor area requirement. Garage space in an exposed basement is not computed in the maximum floor area ratio.
- C. The minimum 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 minimum floor area, shall not include attached or detached garages; other outbuildings; open porches; unexposed basements; or attics or other storage areas having a height of less than seven (7) feet 6 (six) inches.

Exposed basements and the second floor of one-and-one-half and two-story residences may be included in computing total minimum floor area according to the following schedule:

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- i. That portion of the exposed basement of an exposed basement residence which has been designed as an integral part of the living area of the home, may be included in computing total minimum floor area when at least one (1) side is completely exposed to grade level and access has been provided to the outside at grade level by means of at least one (1) door. Said area shall not be included in calculating the maximum floor area ratio requirements.
- ii. That portion of the second floor of one-and-one-half and two-story buildings which has a minimum distance between the ceiling face and the floor of 7 ½ 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. Where the floor to ceiling height is less than 7 ½ feet and the area is part of living space in the residence and does not include a closet, attic, or similar storage area, said area shall be included in the minimum floor area computation (i.e., "splayed" or sloped ceiling).
- iii. In tri-level and split level units, the minimum floor area shall be computed as follows:
 - a. If less than one-half of the lower level(s) is above ground, such level shall be considered a basement and cannot be included in total floor area of the building unless such basement qualifies as an exposed basement section in 3(j) 1.C.i. above.
 - b. If more than one-half of the lower level(s) is above the ground, such areas can be included in determining floor area. If there is no basement below this level(s), two hundred (200) square feet of floor area shall be required in addition to the floor area requirement of the zoning district in accordance with Section 3 (i) 1 A above. This required floor area shall be finished as an integral part of the dwelling unit within six (6) months of the date upon which the building permit is issued.
 - c. The first floor level shall include all area that is not over another living area of the building, exclusive of finished basements.

D. The board of appeals may grant a variance to permit a building of less than the required minimum floor area where such grant would not be contrary to the spirit or intent of the ordinance, and provided the proposed building 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 one thousand (1,000) square feet be permitted or granted.

2. Lot Size

- A. No lot shall hereafter be created and no building shall be erected on a lot of less land area or minimum average width than hereinafter specified by the regulations of the district in which such building is located except as may be provided in Section 3 (i) 2 E below, Section 3 (e) 4 and Sections 4 (h) 20 and 21 of this Ordinance. No lot

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may be created which has less than one hundred (100) feet of frontage on a navigable river or lake, or sixty-five (65) feet of frontage if served by public sewer, pursuant to NR115 of the Wisconsin Administrative Code.

- B. For the purpose of this ordinance, the lot area shall be measured from the base setback line.
- C. A lot shall be at least as wide as the specified minimum average width in the zoning district in which the lot is located for a distance of at least one-half the length of the lot.
- D. No lot area shall be reduced by any means so as to create a lot of less than the required size, or so that the existing offsets, setbacks, open space, lot width, or lot area would be reduced below or the floor area would be increased above that required by the regulations for the district in which such lot is located, except as provided by Section 3 (e) 4 and Sections 4 (h) 20 and 21 of this Ordinance.
- E. Where a lot has less area or width than required for the district in which it is located, or frontage on a navigable river or lake as specified in Section 3 (i) 2 A above, and was of record at the time of the passage of this Ordinance (July 14, 1958), such lot may be used for any purpose permitted in any such district, but not for residential purposes for more than one (1) family; provided; however, that building location, height regulations, and area regulations shall comply with the R-2 Residential District except where otherwise specified in other sections of this Ordinance.

Such substandard lots shall be in separate ownership from abutting lots. If abutting lands and the substandard lot owned by the same owner, the substandard lot shall not be sold or used without full compliance with the minimum lot area requirements of the R-2 Residential District or as close to that minimum as possible. Prior to any of the lots under the same ownership being sold or further developed/used, a Certified Survey Map combining all of the lots into one parcel shall be submitted to the Town for review and approval and, if approved, recorded in the Waukesha County Register of Deeds office.

3. Open space

- A. No principal building shall be hereafter constructed, erected, horizontally added to, relocated, placed, or structurally altered on a lot so as to reduce the amount of usable open space of such lot to less than that hereinafter specified by the regulations for that district except as provided by Section 3 (e) 4 and Sections 4 (h) 20 and 21 of this Ordinance.
- B. To be considered usable, such open space shall be readily accessible and of a size and shape that can be reasonably considered to provide for the amenities and necessities of light, air, play space, drying yard, garden, etc. Crop, pasture, and wooded land may be included in computing such open space.
- C. No part of the open space provided for any building shall be included as part of the open space required for another building, except as hereinafter provided for in planned unit developments (refer to Section 4 (h) 21).

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D. Commercial and Industrial open space shall be calculated as specified by the regulations for those zoning districts.

4. Residential Density

Residential Density (either referred to as units per acre or minimum lot size) shall not exceed the density hereinafter specified by the regulations for the zoning district in which the development/building is located except as otherwise regulated in accordance with Section 3 (e) 4 (sewer reductions), Section 4 (Conditional Uses), and Section 4 (h) 20 (Multiple Family Units) and 21 (Planned Unit Developments).

5. Accessory Buildings and Structures as defined in this ordinance

Building permits are required for the construction of any accessory building/structure of any size, including detached garages which are included in the definition of “Garage, Private” in this ordinance.

A. An accessory building or structure is considered a *private detached garage* if all of the following are true:

- i. It is located no closer to the base setback line than the front line of the residence.
- ii. It is located on the same side of the property as any attached garage, if an attached garage is present.
- iii. It is connected to a driveway made with the same materials as the existing driveway.
- iv. It is built of materials compatible with the principle building, including roofing, roof pitch, siding, windows, material colors, and doors.
- v. The size of the building is based on the footprint of the building including up to a 36-inch overhang. If the overhang is in excess of 36 inches, then the overhang will be included in the building footprint total.
- vi. Height shall be in accordance with the zoning district in which the building is located.
- vii. Maximum allowable total building sizes of two buildings based on lot size:

Less than one acre	750 square feet maximum
1.0 acre to 2.0 acres	850 square feet maximum
2.1 acres or more	1200 square feet maximum

B. An accessory building or structure is considered a *personal storage building* if all of the following are true:

- i. It is located no closer to the base setback line than the rear line of the residence.
- ii. It may or may not have a connection to an existing driveway, but in any event the new driveway shall be made with the same materials or better as the existing driveway on the property.
- iii. It is not a farm building as defined in this ordinance.
- iv. The size of the building is based on the footprint of the building including up to a 36-inch overhang. If the overhang is in excess of 36 inches, then the overhang will be included in the building footprint total.
- v. Height shall be in accordance with the zoning district in which the building is located.

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vi.	Maximum allowable total building sizes of two buildings based on lot size*:	
	Less than one acre	800 square feet maximum
	1.0 acre to 2.9 acres	1300 square feet maximum
	3.0 acres to 5.9 acres	3900 square feet maximum
	6.0 acres to 10.9 acres	7800 square feet maximum
	11.0 acres or more	14300 sq. ft. maximum

*When the calculation of lot size in a fraction of 0.5 or greater, the lot size shall be rounded up. When the calculation of lot size in a fraction of 0.4 or less, the lot size shall be rounded down.

- C. An attached garage shall not be included in the accessory building limitations set forth in this subsection.
- D. Temporary structures shall be included within the limitations set forth in this subsection.
- E. In no case shall the building exceed the total floor area ratio requirements of the zoning district in which they are located (this includes all stories the principal buildings/structures (except the basement) and all stories of the accessory and principal buildings and structures, including any exposed basement level), unless the Board of Appeals grants a variance in accordance with Section 34.
- F. Setbacks and offsets for accessory buildings shall be specified by the regulations for that district, except as provided by Section 3 g, or unless the Board of Appeals grants a variance in accordance with Section 34. All setbacks and offsets shall be measured to the overhang.
- G. Number of Accessory Buildings: In no case shall more than two accessory buildings be permitted on any lot, unless excepted in i-iv below.
- i. On parcels of ten (10) acres or more in area, the number of accessory buildings may be greater than the limits set forth in this subsection when the buildings are used solely for the pursuit of agriculture, where the building(s) will house equipment as regulated in Section 3 (j) 3 A, and/or where the buildings will house livestock or related farm animals and/or poultry, and when consistent with the total floor area ratio requirements of the zoning ordinance.
 - ii. In all Business and Industrial Districts, when approved by the Town Plan Commission as part of the Site Plan/ Plan of Operation review, and where said buildings are used solely accessory to the principal use on said lot.
 - iii. On parcels which are the subject of a conditional use permit and as regulated by the conditional use permit.
 - iv. Where more than two (2) such accessory buildings of any size are proposed on any lot, the Town Plan Commission shall review said structures in light of the provisions of Section 3 (c) 3 A and render a finding to allow or disapprove of the proposed structure(s).

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- H. Accessory buildings shall not be located closer to the base setback line than the rear of the principal building on the lot unless the Town Building Inspector approves another location based on the facts for the specific request. In the case of a dispute, such questions shall be submitted to the Town Plan Commission for a determination.
- I. Accessory buildings shall be landscaped as determined by the Town Building Inspector. In the case of a dispute, such questions shall be submitted to the Town Plan Commission for a determination. Accessory buildings on farm operations as defined in this ordinance are exempt from this requirement.
- J. For accessory buildings less than 200 square feet:
- i. Said buildings shall be located no closer than ten (10) feet to a lot line, as measured to the overhang.
 - ii. Said buildings shall be located no closer to the base setback line than the rear line of the residence.
 - iii. Said buildings count toward the total number of accessory buildings allowed on a lot.
 - iv. Said buildings shall be regulated the same as any other accessory building, unless otherwise noted in subsection 5 J.
 - v. Only one such building meeting the criteria of this subsection shall be located on any lot.
 - vi. Shall be used to store primarily garden and other yard equipment or pool supplies.
 - vii. Any overhang in excess of one (1) foot shall be counted in the square footage of the building.
 - viii. The maximum height shall not exceed 12 feet from the ground to the highest point of the building.
- K. All accessory buildings, regardless of size, shall be constructed on footings or floating slab foundations as approved by the Town Building Inspector. Pole type constructed buildings may be exempt from this provision if the Building Inspector deems it appropriate. In the case of a dispute, such questions shall be submitted to the Town Plan Commission for a determination.
- L. Letters of Credit/Bonds: The Town Building Inspector shall require a letter of credit or bond as listed in the Fee Schedule Appendix included herein to be utilized in the event any work associated with the construction of an accessory building or accessory structure is not completed in accordance with the approved plans, the requirements of this ordinance, or the conditions as set forth by the Town Building Inspector, the Board of Appeals, and/or Town Plan Commission. The Town Building Inspector shall determine the appropriate amount of the bond or letter of credit. The amount shall be proportionate to the work proposed. In the case of a dispute specific to the amount of the bond or letter of credit, such questions shall be submitted to the Town Plan Commission for a determination.
- M. The total building footprint of all accessory buildings on any lot shall not exceed 3% of the total lot size, excluding the established road rights-of-way. Farm operations as defined in this ordinance are exempt from this requirement, but must still comply with the total floor area ratio requirements of this ordinance. Accessory buildings in business and industrial zoning districts may exceed the 3% limitation if approved by the Town Plan Commission as part of a Site Plan/Plan of Operation for the use.

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- N. In no case shall any accessory building be used for purposes not allowed in the underlying zoning district or not approved by a conditional use permit and/or a Site Plan and Plan of Operation.
- O. When a petitioner is proposing to have more building footprint than the limits allow (3%), or as excepted above, the Board of Appeals may grant a variance in accordance with the procedure as outlined in Section 34 of this Ordinance. The petitioner must submit a current plat of survey by a registered land surveyor indicating all existing and proposed buildings on the parcel, their location, total square footages, the number of stories, and the total accessory building footprints. The Board of Appeals may require a deed restriction to be recorded in the Waukesha County Register of Deeds office prior to issuance of the building permit, restricting the use of the oversized accessory buildings to uses accessory to the principal use of the premises and shall not allow uses prohibited in the zoning district in which the building is located.
- P. All accessory buildings shall be constructed in such a way that the exterior appearance is compatible with the design, style, architecture, and appearance of the principal structure on the parcel. The Town Building Inspector shall make this determination. In the case of a dispute, such questions shall be submitted to the Town Plan Commission for a determination. Accessory buildings on farm operations as defined in this ordinance are exempt from this requirement.
- Q. In subdivisions recorded in the Waukesha County Register of Deeds office, pole building type construction of accessory buildings shall not be allowed. The Town Building Inspector shall make the determination as to the type of construction after consulting the definition of a pole building contained in this ordinance. In the case of a dispute, such questions shall be submitted to the Town Plan Commission for a determination. This subsection does not apply to farm operations as defined in this ordinance.
- R. For lots served by private septic systems, approval must be obtained from the Waukesha County Environmental Health Division prior to the issuance of a Building Permit for the accessory building.
- S. No accessory building shall be erected prior to the construction of the principal building on any lot in the Town, unless in compliance with Section 3 (c) 1.
- T. In subdivisions, it is the property owner's responsibility to obtain approval from the Homeowners Association, if applicable. The Town does not recognize or enforce subdivision covenants or restrictions, and the project must comply with the zoning ordinance.
- U. Any accessory building that is to house animals, other than normal household pets, shall maintain a minimum offset of 50 feet, as measured to overhang.
- V. The required distance between a principal building and an accessory building shall be 10 feet, as measured between overhangs.
- W. All accessory buildings and structures shall meet the height requirements of the zoning district in which the building is located, unless exempted by Section 3 (h) 2 or increased in accordance with Section 3 (h) 1.

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- X. For accessory buildings with basement or lower levels, the square footage of the basement level shall be included in the total floor area ratio calculations if at least one-half of the height of the basement at any point is above the existing natural grade of the land at the building site. In addition, in this case, Section 3 (h) 1 cannot be utilized to increase the height of the structure.

If the basement or lower level is not exposed at least one-half of the height of the basement at any point is above the existing natural grade of the land at the building site, the square footage of the basement level shall not be included in the total floor area ratio calculations, and Section 3 (h) 1 can be utilized to increase the height of the structure.

- Y. For accessory buildings and structures on lots more than two acres in size where the side of the building or structure adjacent to the nearest side and/or rear lot line is more than fifty feet in length, the offset otherwise required shall be increased one foot for every foot the side of the building or structure exceeds fifty feet in length. If the lot is not of sufficient size to meet this requirement from the side lot lines and the rear lot line, then the size of the building or structure shall be reduced.
- Z. The above requirements, A-Y, apply to all accessory buildings and structures unless otherwise restricted in this ordinance.
- AA. Beehives as permitted in this Ordinance shall maintain minimum offsets and setbacks of 25 feet and shall be located behind the rear line of the residence or business as the residence or business faces the road.

In the A-3, A-5 and A-10 zoning districts, there shall be no limit on the number of bee colonies or bee hives on a lot. In the AD-10, RD-5, R-1, R-2 and R-3 zoning districts, in recorded subdivisions, on lots one (1) to three (3) acres in size, two (2) bee colonies or hives are permitted; and on lots larger than three (3) acres in size there is no limit on the number of bee colonies or hives allowed. In the AD-10, RD-5, R-1, R-2 and R-3 zoning districts, outside of subdivisions, on lots one (1) to three (3) acres in size, four (4) bee colonies or hives are permitted; and on lots larger than three (3) acres in size there is no limit on the number of bee colonies or hives allowed. In the AD-10, RD-5, R-1, R-2 and R-3 zoning districts, whether in a recorded subdivision or outside of a recorded subdivision, on lots less than one (1) acre in size, no bee colonies or hives are allowed. In all other districts, no beehives shall be allowed on lots less than one (1) acre in size.

(j) Off-Street Parking

1. Spaces required: Any building hereafter constructed, erected, horizontally added to, relocated, placed, or structurally altered shall be provided with off-street parking spaces not greater than five hundred (500) feet from the principal use. A parking space shall be considered to be nine (9) feet in width by not less than twenty (20) feet in depth for angled sixty-degree parking and ninety-degree parking, and there shall be at least sixteen (16) feet of width between opposite facing parking stalls for one way traffic flow and 24 feet for two way traffic flow. The following schedule shall be utilized to determine the number of parking spaces for various uses allowed by this ordinance:
- A. Two (2) spaces per dwelling unit (such dimensions as enumerated above, however, are not required for single family detached housing). The required number of residential spaces can be located in an attached or detached garage.

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- B. *Auditoriums, churches, theaters, community centers and other places of public assembly:* Three (3) spaces for each four (4) seats.
 - C. *Retail business establishments:* Three (3) spaces for each 100 square feet of floor space.
 - D. *Wholesale and other general business establishments:* Three (3) spaces for each 300 square feet of floor space.
 - E. *Office buildings and customer service establishments:* Three (3) spaces for each 200 square feet of floor space.
 - F. *Medical and dental clinics:* Three (3) spaces for each doctor and one (1) space for each employee.
 - G. *Industrial buildings and warehouse buildings:* Three (3) spaces for each 200 square feet of floor space.
 - H. *Sanitariums, institutions, rest homes, nursing homes:* One (1) space for each five (5) beds plus one (1) space for every three (3) employees.
 - I. *Hospitals:* One (1) space for each two (2) beds plus one (1) space for every three (3) employees.
 - J. *Hotels and motels:* One (1) space for each guestroom plus one (1) space for every three (3) employees.
 - K. *Colleges, vocational and night schools, secondary and elementary schools:* One (1) space for each two (2) employees plus one (1) space for every two (2) students except that the requirement for parking at elementary schools may not include student parking. At secondary schools the number of stalls for student parking shall be determined by the administration of that school and appropriate provisions made consistent with the intent of this provision.
 - L. *Restaurants, taverns, clubs, etc.:* Three (3) spaces for each 100 square feet of floor space.
2. Residential parking: Parking of vehicles accessory to a residential use shall be limited to those actually used by the residents or for temporary parking for guests. Vans or pick-up trucks used for private and recreational use, or a motor home (recreational vehicle), or one (1) van or pickup truck used in a conforming business or trade or used for transportation to and from a place of employment of an occupant of the residence, may be parked on any residential property as long as such use does not become a nuisance to the neighborhood. In the event a question as to use arises, the vehicle shall be subject to approval by the Plan Commission.
3. Parking of trucks and equipment: No other vehicular equipment of a commercial or industrial nature (trucks, construction vehicles, grading equipment, buses, semi-trailers and tractors, similar vehicles and related equipment, other trailers, etc), except one (1) van or pickup truck used in a conforming business or trade or used for transportation to and from a place of employment of an occupant of the residence may be parked on any residential property as long as such use does not become a nuisance to the neighborhood, shall be

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parked or stored on any lot in any zoning district except as permitted in the B-3, Q-1, M-1, and M-2 districts, or except as follows:

- A. Agricultural equipment (such as farm tractors, plows, farm plows, seeders, combines, cultivators, trucks owned and used by the farmer in the operation of his or her farm, etc.) parked in an agricultural district and used in an active farm operation as defined in this ordinance.
 - B. As noted in subsection 2 above, one (1) van or pick-up truck used in a conforming business or trade or used for transportation to and from a place of employment of an occupant of the residence, may be parked on any residential property as long as such use does not become a nuisance to the neighborhood. The board of appeals may, if the need is evident, permit more than one (1) van or pick-up truck used in a conforming business or trade or used for transportation to and from a place of employment of an occupant of the residence, if the Town Plan Commission indicates in the Conditional Use approval that they have no objection to the increase in the number of such vehicles. No limitation shall be placed on vans or pick-up trucks if they are used for private non-business or non-commercial recreational purposes as long as such use does not become a nuisance to the neighborhood.
 - C. A conditional use permit pursuant to Section 4 (h) 10 may be granted to permit the parking of commercial or industrial type vehicles in any zoning district except C-1, EFD, UC, RM, RD-5, AD-10, P-I, and B-4. In the B-3, Q-1, M-1, and M-2 districts, where such vehicles are accessory to an otherwise permitted business, industrial, or quarrying use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be hereinafter established under the provisions of the applicable zoning district, and/or the approved Conditional Use and/or Site Plan/Plan of Operation.
4. Surfacing: Any off-street parking area, other than that provided for a residence, having a capacity for more than four (4) vehicles shall be surfaced and well maintained in a dustless condition. Examples of surfacing can be either porous or pervious or impervious surfaces such as bituminous asphalt or blacktop, cement concrete, brick pavers, packed or recycled asphalt, or other surface as approved by the town engineer, but not dirt, grass, gravel, or stone.
 5. Screening: Any off-street parking area other than that provided for a residence, which abuts or faces a residential zoning district shall provide a permanent planting screen, landscaped fence, or wall, at least four (4) feet in height, initially, along the side abutting or fronting a residential zoning district. The wall shall be permitted in accordance with the regulations in Section 3 (g) 1 J and Section 3 C 5.
 6. Offset: In any off-street parking area, other than that provided for a residence, no vehicle shall be parked closer than ten (10) feet to the abutting lot line, except where more restrictive requirements apply.
 7. Setback: In any off-street parking area, other than that provided for a residence, no vehicle shall be parked closer than ten (10) feet to the base setback line, except where more restrictive requirements apply.
 8. Lighting: Lights provided in any parking area shall be hooded or beamed so as not to create

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undesirable glare or illumination of adjacent residential property or distract the traveling public. The maximum pole height from the ground to the luminaire shall not exceed 18 feet in height.

9. Access: Direct vehicular access to an arterial or major collector street, as defined in this ordinance, is required if commercial type vehicles are to be allowed on the property.
10. Cars for sale: Occasional posting of a car for sale on any property, except in zoning districts where car lots are permitted by right, may be allowed by the Town Plan Commission unless a determination is made otherwise under Chapter 5, Nuisances, of the Town of Lisbon, Waukesha County, Wisconsin, General Code of Ordinances, also included as Addendum B herein. The definition of “occasional” shall be the determination of the Plan Commission.
11. Any vehicles parked or stored in any zoning district shall be in compliance with Sections 3 (c) 3, 3 (d) 7 as applicable, and 4 (h) 10 if allowed by a conditional use permit, of this ordinance, or be subject to the provisions of Section 37 of this ordinance, as well as Chapter 5, Nuisances, of the Town of Lisbon, Waukesha County, Wisconsin, General Code of Ordinances, also included as Addendum B herein.

(k) Off-street Loading and Unloading

1. Required: In any business or industrial district, except the Restricted Business District, one (1) off-street loading space shall be provided, in addition to the defined off-street parking area, for every ten thousand (10,000) square feet or fraction thereof in excess of three thousand (3,000) square feet of building area used for business or industrial purposes, exclusive of any storage area.
2. Areas: Each such loading space shall have an area at least ten (10) feet wide by forty-five (45) feet long and shall have a minimum of fourteen (14) feet of height clearance.

(l) Mobile Homes and Trailers

1. Human habitation prohibited: Except within an approved mobile home park or trailer camp as defined in this ordinance, no trailer or mobile home shall be used for the purpose of human habitation in the Town, human habitation of a mobile home or trailer being defined as entering the mobile home for any purpose other than maintenance.
2. A permit for one (1) continuous six (6) month period allowing the human habitation of a mobile home on lands other than an approved mobile home park or trailer camp may be granted by the town board provided:
 - A. The habitation is accessory to the current construction of a principal structure owned by the same person who is applicant for the permit and who will be living in the mobile home or trailer.
 - B. The waste disposal facilities and water supply facilities are approved by the Town Building Inspector and the Waukesha County Environmental Health Division.
 - C. This use shall not be allowed in a floodway or wetland.
 - D. If located in a floodplain, the mobile home or trailer vehicle shall have the lowest floor elevation to the flood protection elevation, shall be anchored so that it does not float, collapse or move laterally during a flood.

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E. If located in a floodplain, the mobile home or trailer shall provide continuous dryland access.

3. Mobile home parks and trailer camps: Such uses shall not be permitted except in accordance with Section 4.
4. Mobile Home/Mobile Home Park Ordinance: All mobile homes and mobile home parks shall comply with the provisions of Chapter 14, Mobile Homes and Mobile Home Parks, of the Town of Lisbon Code of Ordinances, also included as Addendum C herein.

(m) Signs

1. Use restricted: In any district no signs shall be permitted except as hereinafter specified by the regulations for that district.
2. Setbacks and offsets: In any district no sign other than those permitted in a residence or agricultural district shall be permitted closer than twenty (20) feet to the base setback line or to any other lot line, and any sign not directly related to the use of the premises on which it is located shall conform to the setback and offset requirements as would apply to a building in that district.
3. Hazards or nuisances prohibited: No sign, billboard, or other advertising media which creates a hazard or dangerous distraction to vehicular traffic or a nuisance to adjoining residential property shall be permitted in any district.
4. Heights: No free standing sign shall exceed twenty (20) feet in height from the ground and no sign shall in any case exceed the maximum height limit for the district in which it is located.
5. Signs prohibited: Changeable Message (also Electronic Message Board) signs are prohibited in the Town of Lisbon, except a time and temperature sign approved by the Town Plan Commission and/or a manually changed marquee.
6. Sign Ordinance: All signs shall comply with the provisions of Chapter 13, Signs, of the Town of Lisbon General Code of Ordinances, also included as Addendum A herein.
7. Directional Signs: Directional signs as defined in this ordinance shall not exceed 12 square feet in area and may be permitted in any district other than residential zoning districts upon approval of the Plan Commission.

(n) Legal Nonconformity

1. Existing use permitted: The existing lawful use of a building or premises at the time of the enactment of this ordinance or any amendment thereto may be continued although such use does not conform with the provisions of this ordinance in the district in which it is located, and as outlined below.
2. Classification and regulation: For the purposes of administration of the Legal Nonconformity section of this ordinance, the effective date of the ordinance is July 14, 1958, and legal non-conformities shall be classified and regulated as follows:
 - A. *Non-conforming structures*:
 - i. No structure shall be altered, modernized, converted, expanded, or enlarged

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except in conformance with the applicable district regulations if such total work exceeds fifty (50) percent of the structure's assessed value. The 50% is cumulative over the lifetime of the structure.

- ii. Pursuant to Section 62.23 of the Wisconsin State Statutes, a legal non-conforming structure that is damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold or infestation on or after March 2, 2006, may be rebuilt, restored, repaired, or improved to its previous size and location, unless located within the road right-of-way or within a documented easement area. Such damaged or destroyed structure that is located within the road right-of-way or within a documented easement area shall only be rebuilt, restored, repaired, or improved in accordance with approval from the Board of Appeals. The size may be larger if necessary for the structure to comply with applicable state or federal requirements.
- iii. If allowed to be altered, modernized, converted, expanded, or enlarged, all non-conforming structures lying within floodplains shall be floodproofed in accordance with the floodproofing requirements of this ordinance prior to an occupancy permit being granted by the Town Building Inspector.

B. *Non-conforming use of structures and lands:*

- i. No such use shall be altered, converted, expanded, enlarged, improved, or intensified, except as provided for in Section 3 (n) 3 below.
- ii. Upon petition to and approval by the Town Plan Commission, such use may be changed to another use provided the Plan Commission determines that the new use would not result in a greater degree of non-conformity than the current use.
- iii. When any such use is discontinued for twelve (12) consecutive months, the use shall be deemed abandoned, and any future use of the land or structure shall conform to the use regulations of the applicable district of the ordinance currently in effect.
- iv. When a structure which houses such non-conforming use, is damaged to the extent of more than fifty (50) percent of its assessed value as determined by the Town of Lisbon tax roll, it shall not be improved for any use except that which is in conformance with the applicable district regulations of the ordinance currently in effect. The 50% is cumulative over the lifetime of the structure.
- v. The total amount of improvements to a structure housing a non-conforming use shall not exceed fifty (50) percent of the assessed value of the structure as determined by the Town of Lisbon tax roll. The 50% is cumulative over the lifetime of the structure.

C. *Non-conforming lots:* The size and shape of such lots shall not be altered in any way that would increase the degree of such non-conformity with the applicable district regulations.

- 3. Conditional use status: Subject to the provisions of Section 4, conditional use status may be granted by the Town Plan Commission to existing legal non-conforming uses upon petition

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of the owner where such use is determined to be not adverse to the public health, safety, or welfare, would not conflict with the spirit or intent of the ordinance, or would not be otherwise detrimental to the community and particularly the surrounding neighborhood. Such conditional use status shall be granted only with the approval of the Plan Commission following a public hearing in the manner provided in Section 36.

4. No lot, use, or structure which was not lawfully existing at the time of adoption of this ordinance shall be made lawful solely by reason of the adoption of this ordinance, and to the extent that said lot, use, or structure is in conflict in any manner with the requirements of this ordinance, said lot or use remains unlawful hereunder.

(o) Prior permit

1. Construction permitted: Nothing herein contained shall require any change in the plans, construction, size, or designated use of any building or part thereof for which a building permit has been issued before the effective date of this ordinance and the construction of which shall have been substantially started within six (6) months from the date of such permit, in the sole determination of the Building Inspector.
2. Subsequently non-conforming: Any such use which does not conform to the use regulations of the district in which it is located, however, shall subsequently be considered a legal non-conforming use. Uses which are legally existing prior to adoption of this ordinance but do not conform to the regulations of the district in which they are located upon adoption of this ordinance shall be considered legal nonconforming unless appropriately classified as a conditional use through the approval of a Conditional Use Permit.

(p) Swimming pools

1. Use permitted: Above and below ground swimming pools (swimming pools as defined in this ordinance) are permitted in any district, except C-1 districts, subject to the following:
 - A. The pool must be used solely by the owners/occupants of the principal use of the property on which the pool is located, and their authorized/invited guests.
 - B. Any pool, together with its surrounding walks, decks, patios, diving platforms, bathhouses, mechanical appurtenances, and accessory structures shall be so located that the parts of said complex are in conformity with the setback and offset requirements of the applicable zoning district. The pool itself shall not be closer than 10 feet to any residence. The area of the pool shall not exceed 3% of the area of the lot.
 - C. Outdoor pools shall have walls that do not retain anything, or permanent fences, of at least four (4) feet in height, but not to exceed six feet in height, that completely surround the immediate area of all above ground pools to act as a deterrent and to restrict unauthorized persons gaining access to the pool. The wall or fence shall not have openings, holes, or gaps which would allow ease of access by unauthorized persons, except for self closing and self latching gates or doors. A door of a dwelling does not have to be so equipped. Permanent access from grade to above ground pools having stationary access ladders, stairs, or ramps shall not have less than equal safeguard fencing and gates or doors as are provided the swimming pool proper. The intent is to prohibit access to the pool via these mechanisms by unauthorized persons.

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- D. There shall be an unobstructed areaway at least three feet wide and four feet deep, as measured from the top of the pool, and as measured around the entire width of all above ground pools.
 - E. Compliance with Addendum G, Swimming Pools (Chapter 15 of the Town of Lisbon General Code of Ordinances).
2. Permit required: No swimming pool shall be erected, constructed, installed, enlarged, or altered unless a building permit has been issued pursuant to Section 3 (b) of this ordinance and Addendum G. Temporary pools in excess of 200 cubic feet in area and designed to hold more than 18 inches of water that are removed and later reinstalled require a permit to reinstall the pool.

(q) Guesthouses

- 1. Uses permitted: Guesthouses, as defined in this ordinance, are permitted in any district in which a single-family dwelling is permitted.
- 2. Permanent habitation prohibited: A guesthouse must be used only for the short term occupancy of guests of the owners (not a housekeeping entity), not to exceed fourteen (14) consecutive days in any 30 day period, and shall not be leased or rented for human occupancy.
- 3. Accessory to a single-family dwelling: No guesthouse is permitted unless a single-family dwelling is already present on the lot. Only one (1) guesthouse per lot is allowed.
- 4. Area Requirements: No guesthouse is allowed unless the lot upon which the guesthouse is to be located is at least double the minimum area and lot width requirements of the district in which the single family dwelling and guesthouse are located. This requirement is intended to prevent the creation of a non-conforming structure or lot in the event that the guesthouse lot is sold separately.
- 5. Building location: A guesthouse must be able to meet the minimum setback, offset, and open space requirements of the district in which it is located. This requirement is intended to prevent the creation of a non-conforming structure or lot in the event that the guesthouse lot is sold separately.
- 6. Floor area: The floor area of a guesthouse may be any size. However, in order to sell a guesthouse on a lot as a separate unit, its floor area minimum(s) must conform with the district regulations in which it is located, the guesthouse together with any other accessory buildings on the property shall not exceed the maximum accessory building floor area ratio requirement of the ordinance, and the total square footage of the buildings on the lot shall not exceed the maximum floor area ratio requirement of the district in which they are located.
- 7. Access provisions: In the event that a guesthouse parcel is sold separate from the single family dwelling, there must be direct access for each parcel to a public road. If this is impossible, the Plan Commission may approve a private easement for one or both of the parcels to a public road if the following requirements are met:
 - A. The private easement is at least thirty-three (33) feet for one (1) family and sixty-six (66) feet for two (2) families.
 - B. The creation of a private drive would not adversely affect existing or future

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development of the area.

C. The private drive would insure safe and continuous access for public service vehicles, and those properties served by such easement.

D. The driveway for the 33' easement shall be a minimum of 12' in width, and the driveway for the 66' easement shall be a minimum of 16' in width.

(r) Boathouses

1. Boathouses prohibited: Boathouses, as defined in this ordinance, and in Section 30.01 (1d) of the Wisconsin Statutes, are prohibited in any zoning district that may abut a public or private body of water. If an existing boathouse is located on a lot without a principal residence (not including having a legal attachment to another lot with a principal residence owned by the same owner), or is not used as a boathouse as defined in this ordinance, the structure shall be removed from the property upon notification and order of the Town Building Inspector. Improvements to existing boathouses shall be limited to maintenance only (e.g., work that does not legally require permits). The purpose of this regulation is to eliminate the existence of boathouses in the town over time in order to promote the purpose and intent of the ordinance.
2. Habitation prohibited: A existing boathouse may not be used for human occupancy or habitation, human habitation being defined for the purposes of this ordinance as utilizing the building for occupancy for overnight living or longer periods of time and including the aggregate of normal living activities such as lounging, cooking, eating, sleeping, living, dining, bathing, sanitation, etc. No existing boathouse may contain more than one-story and it shall not exceed fifteen (15) feet in total height as measured to the peak of the roof from the average grade surrounding the structure.
3. Only one boathouse shall be located on a lot abutting a public or private body of water. If there is more than one (1) existing boathouse on a lot, only the most conforming building, as determined by the Town Building Inspector in accordance with the provisions of this ordinance, shall remain and all other boathouses shall be removed upon notification and order of the Town Building Inspector.
4. Building location: An existing boathouse shall not be located closer than five (5) feet to the ordinary high water mark and as provided in Section 3 (g) 1 I of this ordinance. Its location relative to offsets may be in accordance with the standards set forth in Section 3 (g) 2 of this ordinance. An existing boathouse may not be located in the C-1 zoning district, wetland, the 100-year floodplain or in the floodway as defined in this ordinance.
5. Existing flat roofed surfaces of existing boathouses may be used as open sitting areas (e.g., a deck) but shall not be permanently enclosed and no other items, except as otherwise noted below, shall be placed or stored on the flat roof (e.g., deck). A typical umbrella that can be closed and moved and/or removed daily, chairs, tables, railings, and access stairs shall be considered ordinary appurtenances for a flat roof boathouse.
6. The maintenance (or any other improvement) of existing boathouses, which extend beyond the ordinary high water mark of any navigable body of water (e.g., wet boathouses), shall be prohibited. The purpose of this regulation is to eliminate the existence of wet boathouses in the town over time in order to promote the purpose and intent of the ordinance.
7. An existing boathouse must be used exclusively by the owners and/or occupants (renters) of the lot. The deck of an existing flat roofed boathouse shall be used exclusively by the

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owners and/or occupants (renters) of the lot and their authorized guests.

(s) First Amendment Protected Adult-Oriented Establishments

1. Findings of Fact

- A. The Town finds that Adult-Oriented Establishments, as defined in this ordinance, require special zoning in order to protect and preserve the health, safety, and welfare of the Town.
- B. Based on its review of studies conducted in Phoenix, AZ, Garden Grove, CA, Los Angeles, CA, Whittier, CA, Indianapolis, IN, Minneapolis, MN, St. Paul, MN, Cleveland, OH, Oklahoma City, OK, Amarillo, TX, Austin, TX, Beaumont, TX, Houston, TX, Seattle, WA and the findings incorporated in City of Renton v. Playtime Theaters, Inc., 475 U.S. 41 (1986), Colman A. Young v. American Mini-Theaters, Inc., 427 U.S. 50 (1976), the Town 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.
- C. The Town 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.
- D. It is not the intent of the Town 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.
- E. In order to minimize and control the secondary effects of Adult-Oriented Establishments upon the Town, it is the intent of the Town 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.
- F. Based upon its review of materials linking alcohol consumption and high-risk sexual behavior and materials linking alcohol consumption and crimes such as sexual assault, the Town finds that a geographic separation of Adult-Oriented Establishments from alcohol beverage licensed premises is warranted.

2. Location of first amendment protected adult-oriented establishments.

- A. The First Amendment and other provisions of the United States Constitution, as interpreted by the United States Supreme Court and other courts, require that Adult-Oriented Establishments, as defined by this ordinance, are entitled to certain protections, including the opportunity to locate in the areas governed by this ordinance. Therefore, an Adult-Oriented Establishment shall be an allowed use in the Q-1 zoning district and shall be a prohibited use in any other zoning district. The Adult-Oriented Establishment may locate in the specified districts only if an Adult-

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Oriented Establishment License has been granted by a town, which is subject to the provisions of this ordinance, and all the requirements of this section and the applicable zoning district's regulations are met.

- B. Adult-Oriented Establishments shall be located at least 1,000 feet from:
- i. any residential district line, playground lot line, or public park lot line;
 - ii. any structure used as a residence, place of religious worship, public or private school, or "Youth Facility" as defined in the Town's Zoning Ordinance;
 - iii. any other structure housing an Adult-Oriented Establishment;
 - iv. any structure housing an establishment that holds an alcohol beverage license.
- C. Distance requirements are to be measured in a straight line in any direction regardless of intervening structures, from the structure housing the Adult-Oriented Establishment to the residential district boundary lines, to the lot line of any lot used for a park, playground, or any structure listed in subsection 2 B (ii. – iv.) above.
- D. 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.
- E. For Adult-Oriented Establishments located in conjunction with other buildings such as in a shopping center, and clearly separate from other establishments, measurements shall be taken from the boundaries of the space occupied by the Adult-Oriented Establishment.
- F. 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).
- G. A licensed Adult-Oriented Establishment is not disqualified from holding an Adult-Oriented Establishment License by the subsequent location of any of the establishments described in subsection (B) above, within 1,000 feet of the licensed premises after the grant or renewal of its license. This provision applies only to renewal of an existing license and does not apply when an application for a license is submitted after a license for that location has not been renewed or has been revoked.

(t) Airport Safety Zone

1. **Maximum Height:** No building or object of natural growth located within 2 miles of the boundaries of any airport, landing field, or landing and take-off strip, and within a band of 500 feet on each side of the center line 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 said point.
2. **Control of Use:** No building or land located within 2 miles of the boundary of any airport, landing field, or landing field and take-off strip shall be so used that by reason of

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the emission of smoke, gas, or other emanation it shall produce a hazard to the operation of aircraft.

3. Exceptions: The aforesaid regulations shall not apply to growing field crops that are harvested at least once a year, or to fences not over 5 feet high.