

ENROLLED ORDINANCE 170-71

ADOPT TEXT AND MAP AMENDMENTS TO THE WAUKESHA COUNTY SHORELAND
AND FLOODLAND PROTECTION ORDINANCE TO INCORPORATE REVISED
FARMLAND PRESERVATION ZONING PROVISIONS AND REVISED
DISTRICT ZONING MAPS FOR THE TOWNS OF EAGLE, OCONOMOWOC
AND OTTAWA TO COMPLY WITH STATE FARMLAND
PRESERVATION REQUIREMENTS (SZ-1459K)

WHEREAS, after proper notice was given public hearings were held on August 3, 2015 and August 20, 2015, and

WHEREAS, the Waukesha County Board of Supervisors enacted the Waukesha County Shoreland and Protection Ordinance on June 23, 1970, and

WHEREAS, the Waukesha County Board of Supervisors may make amendments to such Ordinances pursuant to Section 59.692, Wisconsin Statutes, and

WHEREAS, the matter was referred to and considered by the Waukesha County Park and Planning Commission, which recommended approval and reported that recommendation to the Land Use, Parks and Environment Committee and the Waukesha County Board of Supervisors, as required by Section 59.692 Wis. Stats.

THE COUNTY BOARD OF SUPERVISORS OF THE COUNTY OF WAUKESHA ORDAINS that the Waukesha County Shoreland and Floodland Protection Ordinance adopted on June 23, 1970, is hereby amended to adopt revised and modernized text relative to farmland preservation zoning provisions on file in the office of the Waukesha County Department of Parks and Land Use and marked as Exhibit A, and the revised district zoning maps for the Towns of Eagle, Oconomowoc and Ottawa relative to farmland preservation on file in the office of the Waukesha County Department of Parks and Land Use and marked as Exhibit B. These amendments are also described in the "Staff Report and Recommendation" (SZ-1459K) on file in the office of the Waukesha County Department of Parks and Land Use.

BE IT FURTHER ORDAINED that the Editor of the Code shall make any necessary changes to create a consecutive sequence and orderly format as shall be necessary.

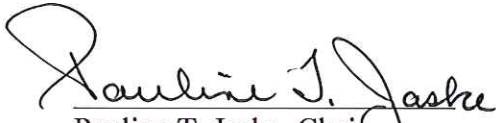
BE IT FURTHER ORDAINED that this Ordinance shall be in full force and effect upon passage, approval and publication.

BE IT FURTHER ORDAINED that all Ordinances inconsistent with or in contravention of the provisions of this Ordinance are hereby repealed.


BE IT FURTHER ORDAINED that the Waukesha County Clerk shall file a certified copy of this Ordinance with each of the Town Clerks within Waukesha County.


ADOPT TEXT AND MAP AMENDMENTS TO THE WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION ORDINANCE TO INCORPORATE REVISED FARMLAND PRESERVATION ZONING PROVISIONS AND REVISED DISTRICT ZONING MAPS FOR THE TOWNS OF EAGLE, OCONOMOWOC AND OTTAWA TO COMPLY WITH STATE FARMLAND PRESERVATION REQUIREMENTS (SZ-1459K)

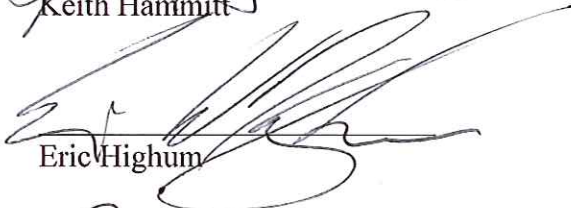
Presented by:
Land Use, Parks, and Environment Committee

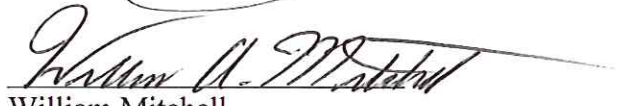

Pauline T. Jaske, Chair

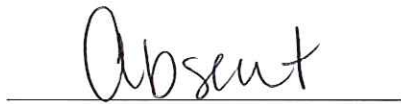

Jim Batzko


Jennifer Grant


Keith Hammitt


Eric Highum


William Mitchell


Thomas J. Schellinger

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, was presented to the County Executive on:

Date: 12/15/15, 
Kathleen Novack, County Clerk

The foregoing legislation adopted by the County Board of Supervisors of Waukesha County, Wisconsin, is hereby:

Approved: X

Vetoed: _____

Date: 12-16-15, 
Paul Farrow, County Executive

WAUKESHA COUNTY BOARD OF SUPERVISORS

V

DATE-12/15/15

NUMBER-1700072

- | | |
|--------------------------|--------------------------|
| 1 R. KOLB.....AYE | 2 D. Zimmermann.....AYE |
| 3 R. MORRIS.....AYE | 4 J. BATZKO.....AYE |
| 5 J. BRANDTJEN.....AYE | 6 J. WALZ.....AYE |
| 7 J. GRANT.....AYE | 8 E. HIGHUM.....AYE |
| 9 J. HEINRICH,.....AYE | 10 D. SWAN.....AYE |
| 11 C. HOWARD.....AYE | 12 P. WOLFF.....AYE |
| 13 P. DECKER.....AYE | 14 C. PETTIS.....AYE |
| 15 B. MITCHELL.....AYE | 16 M. CROWLEY.....AYE |
| 17 D. PAULSON.....AYE | 18 L. NELSON.....AYE |
| 19 K. CUMMINGS.....AYE | 20 T. SCHELLINGER....AYE |
| 21 W. ZABOROWSKI.....AYE | 22 P. JASKE.....AYE |
| 23 K. HAMMITT.....AYE | 24 S. WHITTOW.....AYE |
| 25 G. YERKE.....AYE | |

TOTAL AYES-25

TOTAL NAYS-00

CARRIED _____

DEFEATED _____

UNANIMOUS X

TOTAL VOTES-25

COMMISSION ACTION

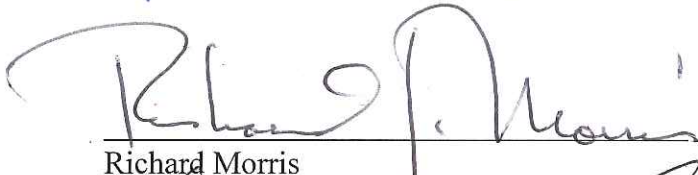
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Shoreland and Floodland Protection Ordinance, hereby recommends **approval** of **SZ-1459K (Farmland Preservation Text Amendments)** in accordance with the attached "Staff Report and Recommendation".

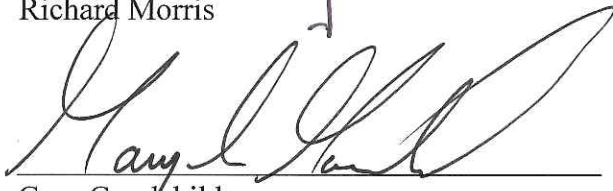
PARK AND PLANNING COMMISSION


August 20, 2015


James Siepmann, Chairperson

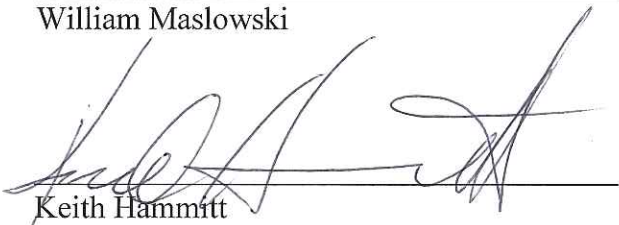

Robert Peregrine


Richard Morris


Gary Goodchild


William Mitchell

Absent
William Maslowski



Keith Hammitt

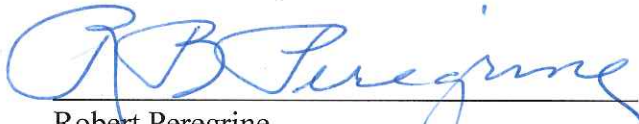
COMMISSION ACTION

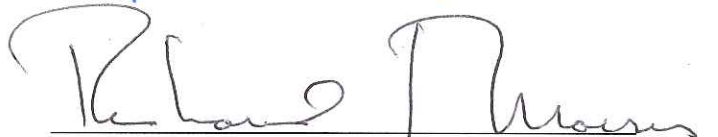
The Waukesha County Park and Planning Commission after giving consideration to the subject matter of the Ordinance to amend the Waukesha County Zoning Code, hereby recommends **approval** of CZ-1459L (Farmland Preservation Text Amendments) in accordance with the attached "Staff Report and Recommendation".

PARK AND PLANNING COMMISSION

August 20, 2015


James Siepmann, Chairperson


Robert Peregrine


Richard Morris

Richard Morris


Gary Goodchild


Absent (late)
William Mitchell

Absent
William Maslowski


Keith Hammitt



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

November 11, 2015

Jason Fruth
Planning & Zoning Manager
Administration Center, Room AC-230
Waukesha County Department of Parks and Land Use
515 W. Moreland Blvd.
Waukesha, WI 53188

Dear Jason:

Re: Certification of the Waukesha County Farmland Preservation Zoning Ordinance

Attached is a department order certifying the Waukesha County Farmland Preservation Ordinance under s. 91.36, Wis. Stats. Please forward the resolution adopting the ordinance materials to DATCPWorkinglands@wisconsin.gov at your earliest convenience to complete the certification process.

We look forward to working with you in the future on farmland preservation in Waukesha County. If you have any questions, feel free to contact me.

Sincerely,

Alison Volk
Land Management Section
608-224-4634

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**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

WAUKESHA COUNTY FARMLAND PRESERVATION ZONING ORDINANCE (TEXT AND MAP).	DOCKET NO. 15-F-76-67-OTM DARM Docket No. 133-00000-O-15 F-1115 ORDER CERTIFYING ORDINANCE THROUGH DECEMBER 31, 2022
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INTRODUCTION

Waukesha County has asked the Department of Agriculture, Trade and Consumer Protection (“DATCP”) to certify a proposed revision of the county’s formerly certified farmland preservation ordinance text, pursuant to s. 91.36, Wis. Stats. DATCP has considered the request and adopts the following decision:

FINDINGS OF FACT

(1) DATCP is an agency of the State of Wisconsin, and is responsible for administering Wisconsin’s farmland preservation law under ch. 91, Wis. Stats., as repealed and recreated by 2009 Wis. Act 28 (“new law”).

(2) Waukesha County is a county in the State of Wisconsin. Waukesha County is a political subdivision that is authorized to adopt a farmland preservation zoning ordinance under s. 91.30, Wis. Stats.

(3) Under s. 91.36, Wis. Stats., DATCP may certify a farmland preservation zoning ordinance or ordinance amendment for compliance with statutory standards. Certification allows farmers covered by the ordinance to claim farmland preservation tax credits under subch. IX of ch. 71, Wis. Stats.

(4) A political subdivision may ask DATCP to certify a farmland preservation zoning ordinance or ordinance amendment. The political subdivision must submit an application under s. 91.40, Wis. Stats. As part of the application, the political subdivision must certify that the ordinance or amendment meets applicable statutory standards under s. 91.38, Wis. Stats. Among other things, the ordinance or amendment must be consistent with the *county’s* certified farmland preservation *plan*.

(5) DATCP may certify a farmland preservation zoning ordinance or amendment if the ordinance or amendment meets applicable statutory standards under s. 91.38, Wis. Stats. DATCP may certify based on the representations contained in the political subdivision’s application, but DATCP may conduct its own review and verification as it deems appropriate.

(6) DATCP may make its certification contingent upon the political subdivision’s adoption of the certified ordinance or amendment, in the form certified. DATCP may also withdraw its certification at any time if, as a result of subsequent changes to the ordinance or the county’s certified farmland preservation plan, the ordinance no longer meets minimum certification standards under s. 91.38, Wis. Stats.

(7) Waukesha County had a certified farmland preservation zoning ordinance. The ordinance expired December 31, 2014.

(8) Waukesha County has a certified farmland preservation plan. This plan is currently certified through December 31, 2021.

(9) On September 30, 2015, DATCP received an application from Waukesha County, in which the county asked DATCP to certify the county's farmland preservation ordinance. Waukesha County submitted the application in the form required under s. 91.40, Wis. Stats. The application included the representations required under ss. 91.40(3) and (4), Wis. Stats.

(10) The farmland preservation zoning ordinance is part of the general Waukesha County Zoning Ordinance, and is intertwined with other provisions of that zoning code. The ordinance includes an ordinance text, together with ordinance maps for the towns of Oconomowoc and Ottawa (the only towns covered by the ordinance at this time).

(11) On October 2, 2015, DATCP confirmed by letter that Waukesha County's certification application was complete, and that DATCP would proceed to review the complete application.

(12) DATCP may certify a farmland preservation ordinance for a period of time specified in the certification order. Certification of an ordinance may not exceed 10 years. See s. 91.36(2)(b), Wis. Stats.

CONCLUSIONS OF LAW

(1) Based on the representations made by Waukesha County in its application for certification of a revised farmland preservation ordinance, DATCP concludes as follows:

(a) The proposed Waukesha County farmland preservation ordinance, consisting of a proposed ordinance text dated October 28, 2015 and maps dated October 16, 2015, meet certification requirements under s. 91.38, Wis. Stats.

(b) DATCP may certify the proposed ordinance pursuant to s. 91.36, Wis. Stats.

(2) Pursuant to s. 91.36(2)(b), Wis. Stats., DATCP should certify the proposed ordinance through December 31, 2022.

(3) Pursuant to s. 91.36(7), Wis. Stats., the effective date of the certification should be the date on which the certification order is signed.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

(1) The proposed Waukesha County farmland preservation ordinance, consisting of the proposed ordinance text dated October 28, 2015 and maps dated October 16, 2015 are hereby

certified under s. 91.36, Wis. Stats.

(2) The certified farmland preservation zoning districts for Waukesha County are the Farmland Preservation District (FLP) and Farmland Conservancy District (FLC).

(3) This certification takes effect on the date on which the certification order is signed.

(4) This certification expires at the end of the day on December 31, 2022.

Dated this 10th day of November, 2015

STATE OF WISCONSIN,
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By Ben Brancel
Ben Brancel, Secretary

Parties for purposes of review under s. 227.53, Wis. Stats.:

Waukesha County

Copies to:

Jason Fruth
Planning & Zoning Manager
Administration Center, Room AC-230
Waukesha County Department of Parks and Land Use
515 W. Moreland Blvd.
Waukesha, WI 53188

WAUKESHA COUNTY DEPARTMENT OF PARKS AND LAND USE
STAFF REPORT AND RECOMMENDATION
ZONING MAP AND TEXT AMENDMENT

FILE NO.: SZ-1459K and CZ-1459L

DATE: August 20, 2015

PETITIONER: Waukesha County Department of Parks & Land Use,
Waukesha County Park and Planning Commission

LOCATION:

The map amendments pertain to the Towns of Oconomowoc, Ottawa and Eagle (shoreland areas only) and predominantly affect the areas of those towns that are planned for Farmland Preservation. The related text changes predominantly affect the same lands, however, the proposal to convert the C-1 Conservancy and EC Environmental Corridor Districts to overlay districts also affects lands within the three above-referenced towns that are located outside of farmland preservation areas.

PROPOSED ZONING:

Text amendments are proposed to bring the Waukesha County Zoning Code and Waukesha County Shoreland & Floodland Protection Ordinance into compliance with the recently updated farmland preservation laws. The following amendments are proposed (text amendment summary attached as Exhibits A, B with “track changes” version available on County website at www.waukeshacounty.gov/planningandzoning- click “more information” tab):

- The AP Agricultural Preservation District is proposed to be replaced by the FLP Farmland Preservation District. The proposed FLP District relies upon Department of Agriculture, Trade and Consumer Protection (DATCP) model language but also carries forward many of the criteria and standards of the existing AP District and is proposed to be modernized and updated to more clearly define when and how non-farm residences may be permitted. The new district also provides more flexibility for farmers in locating lots in environmental corridor areas and for the creation of residential lots for non-family members.
- The AE Exclusive Agricultural Conservancy District is proposed to be replaced by two new districts, the FLC Farmland Conservancy District and the HG High Groundwater District. DATCP requires that districts to be certified as farmland preservation districts be clearly distinguished from other zoning districts. The AE district is currently mapped in both farmland preservation and non-farmland preservation areas, thus a new scheme was needed to differentiate the different types of farmed lowland or undeveloped wet soils. The FLC District is proposed to be a certified farmland preservation district.
- The AT Agricultural Land Preservation Transition District is proposed to be revised and re-named the AT Agricultural Transition District. The revised district would no longer be considered a DATCP certified district and district language has been modified to acknowledge that lands in said category are currently in agricultural or open space use but are expected to convert to other uses over time, consistent with land use plan designations. The minimum parcel size within said district is proposed to be reduced from 35 acres to 20 acres.

- Overlay districts are proposed to be created for the C-1 Conservancy District and EC Environmental Corridor District. DATCP requires that lands zoned farmland preservation be clearly identified. Mapping wetlands and floodplains as overlays allows for the underlying zoning in farmland preservation areas to be clearly stated (FLP or FLC) while continuing to provide the same protections for natural resources as currently provided by the EC and C-1 Districts. The move to overlay districts will also make subsequent map updates much less labor and time intensive and will allow for Planning Staff to more quickly integrate new DNR or FEMA mapping into County zoning maps.
- Comprehensive zoning map changes are proposed for the Oconomowoc and Ottawa zoning maps and the Eagle shoreland zoning map in order to bring said maps into conformance with the recently updated farmland preservation law and to incorporate the above referenced district changes. The most recent available 2010 SEWRPC environmental corridor inventory, 2010 DNR wetland inventory and 2014 FEMA mapping inventories have also been incorporated.

PUBLIC HEARING DATES:

August 3, 2015 (Ottawa map- Ottawa Town Hall)

August 3, 2015 (Oconomowoc map- Oconomowoc Town Hall)

August 20, 2015 (Oconomowoc, Ottawa and Eagle maps and text)

PUBLIC REACTION/PUBLIC INVOLVEMENT:

- **2014/2015.** A workgroup consisting of farmers from Ottawa and Oconomowoc, the town planners from the two towns and Planning & Zoning Staff met multiple times over the past year and one-half to analyze existing code provisions, discuss potential land use conflict issues within farmland preservation areas, consider new DATCP requirements, consider strategies being utilized by other counties and analyze data collected by Planning & Zoning Staff. The workgroup eventually selected a preferred alternative that has now been written into the proposed text amendments with accompanying proposed map amendments.
- **March, 2015.** Planning & Zoning Staff gave overview presentations of the workgroup's analysis and preferred alternatives to the Ottawa and Oconomowoc Plan Commissions and Boards on March 2, 2015 and March 16, 2015, respectively.
- **April, 2015.** A direct mailing was sent to all land owners of property zoned or proposed to be zoned Farmland Preservation. The mailing detailed the workgroup's findings and gave notice of a public open house to be held at the Town of Oconomowoc on May 7, 2015.
- **May 7, 2015.** Open House- Approximately 30 people attended an open house jointly staff by Town and County Planning Staff. Comments were predominantly favorable to the approach being proposed. One of the summary sheets distributed at the open house is attached as Exhibit "C".

- **June 30, 2015.** The Town of Eagle expressed to County Planning & Zoning Staff on June 30, 2015 that the Town wishes to mirror the County's approach for farmland preservation zoning. Accordingly, County Planning staff has shared both the subject draft text and the draft Eagle Shoreland map with the Town Planner. He expressed that he has no suggested changes to the proposed shoreland map on August 12, 2015.
- **August 3, 2015.** Oconomowoc zoning map public hearing. There were no public comments offered by the public at the August 3, 2015 Oconomowoc public hearing. The Town Plan Commission and Planner suggested changes and the vast majority have been incorporated.
- **August 3, 2015.** Ottawa zoning map public hearing. Comments were offered by two individuals. One individual indicated that she did not receive a hearing notice, however, it should be noted that the individual does not own lands affected by the proposal. Another individual expressed concern regarding wishing to have the ability to split a home but not the farm buildings via the farm consolidation process. Planning & Zoning Staff has since amended the definition of farm consolidation to clarify that such a land division may or may not involve the outbuildings on a site. The same speaker expressed concern about affected land owners being notified of the changes. The Town Planner noted that a direct mailing to each land owner had been sent previously and a informational meeting held. The Town still wished to provide a subsequent mailing and Planning & Zoning Staff shared the mailing list and the Town has since sent an additional mailing to affected owners. Finally, the speaker asked questions about his assessment and he was advised to direct those questions to the Town Assessor. The Town recommended approval of the map and text amendments and offered suggested edit language relative to farm consolidations that has now been incorporated.
- **August 10, 2015.** The Town of Ottawa Board re recommended approval of the proposed map and text with edits as recommended at the Plan Commission meeting.
- **August 11, 2015.** The Town of Oconomowoc Plan Commission and Board recommended approval of the proposed map and text with recommended edits as detailed by the Town Planner.
- **August 20, 2015.** Any additional comments offered at the August 20, 2015 public hearing can be addressed prior to action being considered.

COMPLIANCE WITH THE COMPREHENSIVE DEVELOPMENT PLAN FOR WAUKESHA COUNTY:

The proposed text and map updates implement the farmland preservation and natural resource protection recommendations of the County Development Plan. The proposed text revisions will continue to provide for 35 acre density within farmland preservation areas, consistent with regional, County and local plan recommendations. Farmers will be able to create limited new lots provided that 35 acre density is maintained, which will enable them to either create parcels for family members or create additional income via sale of limited lots. The proposed maximum lot size and lot siting standards will ensure that new lots are arranged in the least disruptive manner possible.

OTHER CONSIDERATIONS:

The State's farmland preservation laws were updated within the past several years and require counties to update farmland preservation plans and farmland preservation zoning ordinances on a prescribed schedule. The more urbanized counties, including Waukesha County, must act to update said documents earlier than the more rural counties. Accordingly, Waukesha County convened an advisory committee and completed a new County Farmland Preservation Plan in 2011. The plan carried forward many of the same general recommendations of the prior plan. Specifically, the updated plan continued the scheme of identifying major blocks of productive farmland (five square miles or more in area) for preservation. The northerly part of the Town of Oconomowoc (north of C.T.H. "K") and the parts of Ottawa and Eagle that are west of the Kettle Moraine State Forest were re-affirmed as meeting the basic area and required soils and parcel size criteria. Accordingly, the updated County Farmland and County Development Plans recommended that these areas continue to be planned for farmland preservation.

Farmland Preservation zoning allows eligible landowners to claim a tax credit on a per acre basis. Within the farmland preservation areas of the Town of Oconomowoc, enhanced tax credits are available because the Town is part of an Agricultural Enterprise Area (AEA). AEAs are areas that are targeted for agricultural investment and the Oconomowoc AEA was unique in being the first in the State and also unique in that the project boundaries transcend both county and town lines, as the AEA also includes lands in the Town of Ashippun in Dodge County.

As noted above, Waukesha County convened a workgroup of farm representatives and the town planners from the two towns (Oconomowoc and Ottawa) that are subject to County zoning and have lands planned for farmland preservation. The workgroup examined farm size data and land division trends and discussed problems that have emerged over time in the areas planned or zoned for farmland preservation. The workgroup concluded that the encroachment of non-farm development into the farmland preservation areas of the Town of Oconomowoc, in particular, was continuing to further fracture the block of farmland there and creating use conflicts. Estate type home development on farmland preservation parcels was noted to be a threat to the farmland base. The workgroup concluded that the minimum 35 acre lot size requirement of the existing AP District was not effective, on its own, in preserving farmland. In addition, the group expressed concern that the rules for creation of residences for family members were not clear and that the long-term expectation that such lots/residences remain in the family was unenforceable and inequitable. The group examined the new statutory requirements for non-farm residences in farmland preservation areas and looked at other Wisconsin county examples.

The workgroup explored at least one-half dozen options and ultimately expressed a preference for the existing 35 acre density scheme to continue while providing for limited new residences or new lots of less than 35 acres via a new rezoning process. The rezoning process will require new lots to be rezoned out of the FLP District and will require compliance with maximum lot size standards and lot siting standards to ensure that new homes or lots are located outside of prime agricultural soils and cultivated land to the greatest extent practicable. The siting standards also call for lots to be clustered near one another or near roadways to the extent possible. New lots in areas zoned for Farmland Preservation would be permitted to be a minimum of one acre and a maximum of three acres in area. Farm consolidation parcels would be permitted to be a maximum of five acres in area. The idea is that new lots or residences would be located on a relatively small part of a farm so as to keep the vast majority of the farm intact to ensure its long term viability along with ensuring that the surrounding agricultural lands are impacted the least amount possible.

The workgroup felt that limited development should be allowed in environmental corridor areas to avoid further division of cultivated farm fields. Accordingly, the proposed ordinance language allows for such limited development in such environmental corridor areas. The workgroup also felt it was important to count lots or dwelling units created since 1997, the date the County development plan was adopted, in arriving at permissible density per farm. The workgroup preferred a continuation of 35 acre density versus a cap on the number of available dwelling units per farm, because such an approach is equitable for both small and larger land owners.

The proposed map changes place the vast majority of properties that are currently zoned AP District into the FLP Farmland Preservation District. In other words, most lands currently eligible for farmland preservation zoning tax credits will continue to be eligible for such tax credits if the revised maps are accepted. A number of properties that were zoned AP but are no longer planned for farmland preservation have been placed into conventional zoning categories. Some properties, primarily in the Town of Oconomowoc, that are planned for farmland preservation but that are not currently zoned as such are proposed to be zoned FLP District to bring zoning into conformance with local and County plan designations. Properties less than 10 acres in area that are planned for farmland preservation have generally been assigned conventional zoning designations, as such parcels are generally outliers that are no longer in farm use. Approximately 10,000 acres in the Town of Oconomowoc and 1,600 acres in the Town of Ottawa are proposed to be zoned to either the FLP or FLC Districts and less than 200 upland acres in the shoreland areas of the Town of Eagle would be zoned FLP District. The vast majority of this acreage is already zoned in the AP or AE Districts.

Both the Towns of Oconomowoc and Ottawa have recommended approval of the proposed amendments. Both also offered recommended edits and those have been incorporated into the final draft text. The Town of Eagle has expressed its intention to match the proposed County zoning scheme for the areas that are subject to the Town of Eagle Zoning Code. The Eagle Town Planner has indicated that he does not have any concerns with the proposed Eagle shoreland zoning map. The draft text and map will be forwarded to DATCP for review and comment and any required changes are proposed to be incorporated into the final documents.

STAFF RECOMMENDATION:

It is the opinion of the Planning and Zoning Division Staff that this request be **approved, subject to the following conditions:**

1. This approval is contingent upon final DATCP review and certification and edits required by DATCP shall be incorporated into the proposed text and maps, as necessary.
2. This approval is contingent upon the final review of the Waukesha County Corporation Counsel and any edits deemed necessary shall be incorporated, as necessary.

The proposed text and map amendments bring the County zoning ordinances into conformance with new State farmland preservation zoning laws which makes landowners eligible to claim tax credits. The proposed mechanism for the approval and siting of new residences and lots in farmland preservation areas will ensure that farmers continue to have the option to create limited lots for family members and will now offer them the flexibility to create or sell limited lots to non-family members. The siting standards will limit the location of new development via a case-by-case review of site conditions so that new development, when proposed, will not undermine the overall intent of the farmland preservation program

to preserve farmland and avoid land use conflicts with non-farm uses. There has been extensive community and public input to ensure that the proposed provisions are understandable and workable for the affected communities and landowners.

Respectfully submitted,

Jason Fruth

Jason Fruth
Planning & Zoning Manager

Enclosures: Exhibit "A"
Exhibit "B"
Exhibit "C"

Maps (The three proposed zoning maps are available on the Waukesha County website (www.waukeshacounty.gov/planningandzoning under the "mapping resources" tab).

**2015 FARMLAND PRESERVATION AMENDMENTS
TO THE WAUKESHA COUNTY ZONING CODE**

SECTION 2.02

Create definitions as follows:

- Agricultural Accessory Use: Any of the following land uses on a farm:
 - A. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
 - B. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - C. A farm residence that existed on May 31, 2015.
 - D. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (A) or (C), that employs no more than 4 full-time employees annually and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 - E. Any other use that the Department of Agriculture, Trade and Consumer Protection ("DATCP"), by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.
- Agricultural or Farm Use: Any of the following uses:
 - A. Any of the following activities:
 - 1. Crop or forage production.
 - 2. Keeping livestock, horses and poultry.
 - 3. Beekeeping.
 - 4. Nursery, sod, or Christmas tree production.
 - 5. Floriculture.
 - 6. Aquaculture.
 - 7. Fur farming.
 - 8. Forest management.
 - 9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
 - B. Any other use that DATCP, by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.
- Agriculture-Related Use: Any of the following uses:
 - A. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.

B. Any other use that DATCP, by rule, identifies as an agriculture-related use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

- Contiguous: When referred to in this ordinance in the context of farmland preservation provisions, contiguous lands or parcels shall mean adjacent to, sharing a common boundary and including lands that are separated by a road, stream or section line.
- Development Right: When used in the context of the Farmland Preservation (“FLP”) or Farmland Conservancy (“FLC”) Districts, the term, Development Right, shall be synonymous with the number of dwelling units and new parcels of less than 35 acres that a farm tracking unit is entitled to create.
- Farm: All contiguous land under common ownership that is primarily devoted to agricultural use.
- Farm Acreage: The size of a farm in acres.
- Farm Consolidation: A division of land that includes a farm house or houses and may include existing associated agricultural buildings that splits a limited amount of land from a larger pre-existing farm.
- Farm Residence: Any of the following structures that is located on a farm:
 - A. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
 1. An owner or operator of the farm.
 2. A parent or child of an owner or operator of the farm.
 3. An individual who earns more than 50 percent of his or her gross income from the farm.
 4. A migrant labor camp that is certified under s. 103.92.
- Farm Tracking Unit: One or more contiguous parcels that were part of a single farm or in the same ownership on May 31, 2015 that are designated on the Comprehensive Development Plan for Waukesha County as a Farmland Preservation Area.
- Farmland Preservation Area: An area that is planned primarily for agricultural use or agriculture-related use, or both, and that is one of the following:
 - A. Identified as an agricultural preservation area in a farmland preservation plan described in s. 91.12(1), Wis. Stats.
 - B. Identified under s. 91.10(1)(d), Wis. Stats. in a farmland preservation plan described in s. 91.12(2), Wis. Stats.
- Farmland Preservation Plan: A plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 stats.
- Nonfarm Residence: A single-family or multi-family residence other than a Farm Residence.

- Parent Parcel: The term parent parcel, when used in the Farmland Preservation District or Farmland Conservancy District, shall mean a parcel, as it existed, on January 1, 1997.
- Permitted Use: A use that is allowed without a conditional use permit, special exception, or other special zoning permission but that may require a zoning permit or other approval as specified in this ordinance.

SECTION 2.02

Repeal and recreate Kennel, hobby definition to read as follows:

- Kennel, hobby: A private, non-commercial establishment, structure, premises or pursuit accessory to the principal use of the property where three (3) or more dogs of six (6) or more months of age are kept for such private purposes as pets, field trials, shows or hobby. The occasional raising of not more than two (2) litters of dogs per year on a premises and the sale or disposal of said dogs within six (6) months of their birth shall also be considered a private hobby kennel.

SECTION 2.02

Repeal and recreate Livestock definition to read as follows:

- Livestock: Animals which are typically kept for breeding, production of agricultural products, sale or pleasure, including, but not limited to cattle, bovine, emus, llamas, alpaca, pigs, swine, hogs, sows, horses and other equine animals, sheep, goats, farm raised deer, camelids, ratites, farm-raised fish, farm-raised game birds and bison. For purposes of the FLC and FLP Districts, Livestock is defined as bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

(Amended by Enrolled Ordinance 159-69, effective 1-17-05.)

SECTION 3.08(7)(A)

Repeal and recreate Section 3.08(7)(A) to read as follows:

- (7) Conditional use permitted: Subject to the foregoing, in addition to such uses enumerated in the district regulations, the following may be permitted as conditional uses in the districts specified, provided further that a public hearing shall be held by the approving body before approval for any such conditional use is granted:
- (A) Airports, Landing Fields and Take off Strips: In all agricultural, AD-10, RRD-5 districts, HG High Groundwater District and non-wetland C-1 Conservancy districts, except that in the FLP Farmland Preservation District and the FLC Farmland Conservancy District, the aviation use must be agriculturally or municipally related and shall comply with all provisions of Section 6.1, subject to the approval of:
1. Building and site plans and a plan of operation for the conduct of the use shall be approved by the Plan Commission and County Zoning Agency.
 2. Review and approval by the Federal Aviation Administration and/or the State of Wisconsin Bureau of Aeronautics or a letter waiving their approval or indicating such approval is unnecessary.

SECTION 3.08(7)(B)

Repeal and recreate Section 3.08(7)(B) to read as follows:

- (B) Antique Shops, Gift Shops, Art Studios and Similar Uses: Such uses are permitted by right in business districts. In addition, such uses are permitted conditionally in all other districts except the FLP, FLC, HG and C-1 Districts subject to the following:
1. The location, site plans and plan of operation have been submitted to and approved by the Plan Commission and County Zoning Agency.
 2. Such use is compatible with surrounding land uses.

SECTION 3.08(7)(D)

Repeal and recreate Section 3.08(7)(D) to read as follows:

- (D) Animal Hospitals, Veterinarian Clinics, Commercial Kennels: In any district, except C-1 and EC Environmental Corridor districts. However, animal hospitals and veterinarian clinics shall be permitted uses by right in the A-B Agricultural Business districts and business districts as long as such facilities do not include the operation of a commercial kennel. In the FLP and FLC Districts, such uses shall comply with all requirements of Sections 6 and 6.1. No structures are allowed in the FLC or HG District. The following requirements shall be met:
1. The location, building and site plans, and a plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.
 2. Animal hospitals and clinics not involved in the operation of a commercial kennel may be permitted on lots of not less than one (1) acre and shall be in conformance with building location, height regulations and area regulations of the district in which such facilities are located. A commercial kennel operation shall not be permitted on parcels of less than three (3) acres and three hundred (300) feet of minimum average width.
 3. No building other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in an Agricultural or Residential Zoning District. Where the buildings are to be used to board or house dogs in a commercial kennel, including outdoor kennel runs, such structures and fenced runs shall not be closer than one hundred (100) feet to an adjoining lot line.

SECTION 3.08(7)(E)

Repeal and recreate Section 3.08(7)(E) to read as follows:

- (E) Churches, Synagogues and other Buildings for Religious Assembly: In any district, except in the C-1, HG, FLC and EC Environmental Corridor districts subject to the following requirements:
1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.
 2. A floor area ratio of no more than 50% be allowed.
 3. Off-street parking be provided for one (1) automobile for each four (4) seats provided in the main assembly of the building.
 4. Such use shall conform to the setback, height, and double the offset requirements of the district in which it is located.
 5. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and offsets shall be increased two (2) feet for every additional foot of height in excess of the permitted maximum in that district. The

aforesaid height regulation shall not apply to the spire or belfry of a church except where Airport Safety Zone regulations specifically limit the maximum height.

SECTION 3.08(7)(F)

Repeal and recreate Section 3.08(7)(F) to read as follows:

- (F) Cemeteries and Mausoleums for the Burial of Human Remains only: In any district, except C-1, FLC or EC Environmental Corridor Districts subject to the approval of the Town Board following recommendation of the Plan Commission. In the FLP district, cemeteries and mausoleums that are governmental, institutional, religious, or nonprofit are permissible if they comply with the terms of Section 6.1.

SECTION 3.08(7)(G)

Repeal and recreate Section 3.08(7)(G) to read as follows:

- (G) Commercial fish or bait ponds or hatcheries: Such uses are considered permitted uses by right within the FLP and FLC Districts. In all other districts such uses are permitted conditionally, subject to the following:
1. The location, building and site plans, and plan of operation shall be submitted to and approved by the plan commission.
 2. No such use shall be permitted on a lot less than five (5) acres in area.
 3. No building other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential uses.

SECTION 3.08(7)(I)

Repeal and recreate Section 3.08(7)(I) to read as follows:

- (I) Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations, Poultry and/or Egg Production: In the A-1, A-B, A-O, A-5, AD-10, FLP, FLC, A-T, and RRD-5 districts. Commercial or custom grain drying, poultry and/or egg production are considered permitted uses by right in the A-B Agricultural Business district and conditional uses in all other of the above agricultural districts. The following minimum requirements shall be complied with in the granting of conditional uses under this Section:
1. The location, building and site plans and a plan of operation shall be submitted to and approved by the Plan Commission and County Zoning Agency.
 2. No building other than one used only for residential purposes shall be located closer than one hundred (100) feet of the lot line of an adjoining lot in a residential district. In all other cases a minimum offset of fifty (50) feet shall be maintained.
 3. Although the Ordinance does not prescribe exactly how a plan of operation is to be put together, of particular interest to the plan commission will be the method by which animal waste will be handled in a safe and healthful manner. No such consideration or approval will be granted on a lot of less than five (5) acres in size.

SECTION 3.08(7)(KK)

Repeal and recreate Section 3.08(7)(KK) to read as follows:

(KK) Limited Family Business: The purpose and intent of this Section is to provide a listing of procedures and standards of operation for limited family businesses that may operate in an attached garage or detached accessory building under a conditional use permit in residential or agricultural districts except the EC Environmental Corridor District and FLC District. Within the FLP District, such uses must comply with the terms of Section 6.1.

1. A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area. Any expansion of the limited family business will be subject to an amendment to the conditional use permit and, if said amendment is denied, the conditional use permit would either terminate or the expansion could not take place.
2. All employees, except one full-time equivalent, shall be members of the family residing on the premises.
3. The plan commission and zoning agency shall determine the percentage of the property that may be devoted to the limited family business and the more restrictive determination shall apply.
4. The limited family business is restricted to a service oriented business or home occupation business and is prohibited from manufacturing or assembling products. The sale of products on the premises which are not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e. hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair).
5. The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building.
6. The structures used in the limited family business shall be considered to be residential accessory buildings and shall meet all the requirements for such buildings. The design and size of the structures are subject to conditions in the conditional use permit.
7. The conditional use permit shall automatically expire and terminate on the sale of the property or its transfer to a non-occupant of the property.
8. The limited family business shall not operate on a parcel having less than the minimum parcel size for the district in which it is located. For certain uses which are determined by the town and county to have a potential adverse effect on adjacent residential zoned

properties, additional requirements regarding location and site standards (i.e. screening) may be required as conditions of the use.

SECTION 3.08(7)(P)

Repeal and recreate Section 3.08(7)(P) to read as follows:

- (P) Planned Unit Development (P.U.D.): Due to increased urbanization and the associated greater demands for open space and the need to create a more desired and creative living environment than would result through the strict application of the standard zoning requirements, it is herein provided that there be flexibility in the regulations governing the development of land. This provision is intended to encourage planned unit development in directions which will recognize both the changes in design and technology in the building industry and the new demands in the housing market. It is intended that these provisions create imaginative and interesting communities with substantial open area owned in common or dedicated to the public and for the enjoyment of the residents, and will encourage a more efficient and desirable use of the land and open space areas thereby resulting in more variety of the physical development of the County.

An overall development plan showing how the above objectives are to be achieved must be submitted to the Plan Commission and the County Zoning Agency for review and approval. This use is permitted in any district except A-B, FLP, FLC, A-T, A-B, AD-10 and RRD-5 Districts except that no portions of any building lots or structures shall be allowed in the C-1 or HG Districts, subject to the following:

1. Lot size, height, offset, setback, open space, floor area ratio, building size and building location requirements may be modified according to the following conditions:
 - (a) That all sanitary provisions are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.
 - (b) That the proposed development is in conformity with the Town comprehensive plan or County Land Use Plan and is not contrary to the general welfare or economic balance of the community, and that the benefits and amenities of the resultant development justifies the variation from the normal requirements of the district.
 - (c) That all other requirements of the planned unit development are met as set forth in this Section.

2. Residential Planned Unit Development:
 - (a) The following table may be utilized to compute the maximum dwelling unit density requirements of the P.U.D., except that areas which are Primary or Secondary Environmental Corridors are also subject to (b) below.

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

* Calculations for Environmental Corridors shall occur as established in (b) below.

- (b) If all of the Primary and Secondary Environmental Corridor or Environmental Corridor zoned lands are preserved in their entirety within the public open space or common open space and preserved in their natural state, the density of one unit per five (5) acres may be added to the maximum number of dwelling units derived from utilizing the table above.
- (c) Lands currently zoned C-1 may not be used in formulating the density of the project. When lands border a lake or other public body of water, pyramiding as defined herein, may be allowed if the minimum water frontage at the high water mark is one hundred (100) feet for the first dwelling unit and an additional twenty-five (25) feet for each additional dwelling unit thereafter. No more dwelling units may have access to the water body than would result from the application of this provision irrespective of the overall size of the development parcel.
- (d) Public open space or common open space shall be of a size and shape to provide an integrated system of open spaces to the greatest extent possible and to narrow bands or corridors, but shall be larger blocks or wide corridors of land, usually not less than one (1) acre in area. Corridors linking large blocks of public open space or common open space shall be not less than fifty (50) feet in width to provide adequate buffers from adjacent residential lots. The size, shape and location of said public open space or common open space shall be subject to review and approval of the Plan Commission and Zoning Administrator in order to qualify the project for consideration as a P.U.D. Public open space or common open space shall be a minimum of 30% of the entire development, while no more than 10% of the entire acreage of the development included in the required 30% open space can be Conservancy zoned land. In any development, no more than 5% of the public open space may be used for public buildings, such as schools, fire stations, municipal buildings, etc.
- (e) In public open space or common open space containing environmentally significant areas, a maximum of 2% of the environmentally significant areas may be used for limited construction of recreational related structures and recreational trails.

- (f) Public open space or common open space shall contain at least 90% green space. Such public open space or common open space shall not be part of individual residential building lots and all but 5% of the open space shall be free of structures and impervious surface. The Zoning Administrator and the Plan Commission may increase as a special exception the maximum requirement in conformance with the overall intent of these provisions while also protecting the public's interest.
 - (g) Adequate guarantee shall be provided for permanent retention of the open space resulting from these regulations, either by private reservation for use of the residents within the development or others as may be specifically provided for, i.e.: farmers use of open space, dedication to a public entity or development of a private recreational facility open to the general public in perpetuity for a fee, subject to Plan Commission and Zoning Agency approval. There shall not be any clear cutting or clearing of vegetation other than dead, diseased, or dying vegetation or removal of invasive species on any lands being so preserved in public open space or common open space which are considered Primary or Secondary Environmental Corridor or Isolated Natural Resource Areas, as depicted on the Waukesha County Comprehensive Development Plan, except as provided in (e) for limited trail or recreational related development.
 - (h) Perpetual care and maintenance of public open space or common open space shall be provided for by an agreement recorded with the Waukesha County Register of Deeds. Said agreement shall include an operation plan, which shall preserve the natural qualities of the environmentally significant lands. The agreement shall be submitted to and approved by the Plan Commission and the Zoning Administrator and may be subject to review by the Waukesha County Naturalist if required by the Plan Commission and/or the Zoning Administrator and this condition is not satisfied unless all such appropriate approvals are granted.
 - (i) Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Plan Commission and Zoning Administrator and made part of the conditions of approval.
3. Commercial P.U.D.: The use of a Commercial P.U.D. may be authorized only where the underlying zoning is mapped in one or more of the business districts on the parcel or a portion thereof. If only a portion is zoned for business, the commercial P.U.D. may only be used for the same percentage of the site that would result from the normal application of the Business district requirements. The location of the proposed business uses can however, be flexed on the site so long as no more area is devoted to such use than is permitted in the underlying district. The attendant parking areas and service facilities for the commercial areas shall be included in the areas allocated to such non-residential uses.
- (a) The proposed P.U.D. shall be served by adequate off-street parking, loading and service facilities.
 - (b) The P.U.D. shall not create an adverse effect upon the general traffic pattern or adjoining property values.

- (c) Architecture, landscaping, lighting and general site development shall be compatible with the surrounding neighborhood.
 - (d) The aforementioned requirements shall be certified by the Town and County as having been fully met.
4. Mixed P.U.D.: A mixed P.U.D. shall consider allowing a mixture of business, residential or other uses as the underlying zoning would allow. The percentage of area in the project shall be the same as would result from the application or the strict adherence of the normal district regulations. The location of the uses can however, be flexed on the site so long as no more area is devoted to the various uses than would be permitted in the underlying zoning district. The attendant parking and service facilities for the non-residential part of the project shall be included in the area allocated to such non-residential uses.
- (a) The proposed mixture of commercial, industrial, residential, and other uses shall produce a unified composite which is comparable both within itself and with the surrounding neighborhood.
 - (b) The mixed uses shall conform to the general requirements applicable to each of them as here-in-before set forth.
 - (c) The maximum allowable dwelling unit density shall be computed using only the residential area portion of the total P.U.D. area. If residential use and non-residential use occur in the same proposed building, that percentage of the commercial use of the building shall be deducted from said building lot and only the remaining area shall be used in the density computation for the remaining residential units.
5. After all conditions of a planned unit development project are certified by the town and county as being completed, the conditional use status of such completed development shall be changed to a permitted use in the district in which it is located.
6. Example - Computing Maximum Dwelling unit Density in a Planned Unit Development: A developer wishes to divide one hundred (100) acres of land into a planned unit development. Ten (10) of these acres are zoned C-1 Conservancy. The rest is zoned R-1 Residential. The preliminary plan shows an additional ten (10) acres proposed for commercial uses but not zoned for business.

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

a)	Gross acreage	100 acres
b)	Less ten (10) acres zoned C-1	<u>- 10</u> acres 90 acres
c)	Less ten (10) acres zoned for B-2 Business use	<u>- 10</u> acres 80 acres
d)	Total residential acreage in sq. ft.	3,484,800 square feet

(80 acres x 43,560)

- e) Divide by square feet per dwelling unit requirement for R-1 Residential districts
3,484,800 divided by 41,000) 85 units
- f) The 10 acres zoned for commercial use cannot be included in the PUD as it is not zoned for business uses and must be rezoned to be considered.

SECTION 3.08(7)(Q)

Repeal and recreate Section 3.08(7)(Q) to read as follows:

- (Q) Private Clubs and Resorts: Without limitation because of enumeration, this category includes resorts and private clubs such as indoor/outdoor recreational and athletic facilities (i.e., tennis, racquet ball, volleyball, basketball, driving ranges, baseball batting cages, tanning booths, campgrounds, golf courses, beaches, yacht clubs, boarding stables, etc.) are permitted in any district except that buildings and structures are not permitted within the C-1, HG, or FLC Districts. Such uses may only be allowed in the FLP or FLC Districts if incidental to and compatible with the continued long term agricultural use of the lands and in conformance with Section 6.1. Such uses shall be subject to the following:
1. The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.
 2. No such use shall be permitted on a lot less than three (3) acres in area except in a restricted business or less restrictive district.
 3. No building, other than one used only for residence purposes, shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
 4. Off-street parking shall be provided as required by the plan commission adequate to meet the particular needs of the proposed use.
 5. No such permitted use shall include the operation of a commercial facility such as a bar, restaurant or arcade except as may be specifically authorized in the grant of permit.

SECTION 3.08(7)(R)

Repeal and recreate Section 3.08(7)(R) to read as follows:

- (R) Public and semi-public buildings and uses: In any district, except the C-1 Conservancy District. Such uses within the FLP and FLC shall comply with all terms of Section 6.1. No structures are permitted within the HG or FLC Districts. Such uses shall be subject to the following:
1. The location, building and site plans and plan of operation shall be submitted to and approved by the plan commission.
 2. Such use shall conform to the setback, height, and double the offset requirements of the district in which it is located.
 3. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and offsets shall be increased two (2) feet for every additional foot of height in excess of the permitted maximum of that district.

SECTION 3.08(7)(S)

Repeal and recreate Section 3.08(7)(S) to read as follows:

(S) Quarrying as defined in this Ordinance: In any district, except the EC Environmental Corridor, AD-10, RRD-5, A-2, A-3, A-4, R-1, R-2, R-3, P-I, B-1, B-2, B-3, B-4, BP or M-1. Existing quarries may continue to operate in the C-1, HG and FLC Districts. New quarries are prohibited in the C-1, HG and FLC Districts. Quarries within the FLP or FLC Districts shall comply with all terms of Section 6.1. All quarries are subject to the following:

1. Procedure for application:

(a) Permit: No quarrying operation shall take place in any district until a conditional use permit has been received and approved by the plan commission, town board and county zoning agency. Except in a quarrying or general industrial district, such permit shall be for an initial period as is deemed appropriate to the specific situation but not to exceed three (3) years provided application therefore shall be made at least sixty (60) and no more than one hundred twenty (120) days before expiration of the original permit. Application after such date shall be treated as an original application.

(b) Application: Application for a conditional use permit shall be made on forms supplied by the Waukesha County Park and Planning Commission and shall be accompanied by a fee as may be established and periodically modified under Section 22.02(5) of this Ordinance. Such fee shall be paid by cash, check or money order to the Waukesha County Park and Planning Commission.

(1) A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description.

(2) A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.

(3) A topographic map of the area at a minimum contour interval of five (5) feet extending beyond the site to the nearest public street or highway or to a minimum distance of three hundred (300) feet on all sides.

(4) A restoration plan as required by Section 3.08(7)(S) 3(e).

2. Procedure for action on applications:

(a) Referral to plan commission: The application and all data and information pertaining thereto shall be referred to the plan commission for public hearing and

report and recommendation back to the town board within thirty (30) days after the public hearing.

- (b) Public hearing: Within thirty (30) days after an application has been filed, a public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing, notices also shall be sent through the mail or otherwise placed in the hands of all land owners within a half-mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten (10) days prior to the date of hearing. Substantial compliance with the notice requirements of this Section shall be deemed sufficient. No hearing shall be required precedent to issuing a permit in a quarrying district.
- (c) Action by town board: The town board shall, within ten (10) days after receipt of the recommendation of the plan commission, take action to approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety and welfare, and shall give particular consideration to the following factors in making their decision:
 - (1) The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety, and efficiency.
 - (2) The effect of the proposed operation on drainage and water supply.
 - (3) The possibility of soil erosion as a result of the proposed operation.
 - (4) The degree and effect of dust and noise as a result of the proposed operation.
 - (5) The practical possibility of restoration of the site.
 - (6) The effect of the proposed operation on the natural beauty, character, tax base, land value, and land uses in the area.
 - (7) The most suitable land use for the area with particular consideration for future residential value.
- (d) Approval by zoning agency: The determination of the town board shall be immediately transmitted to the county zoning agency which shall within thirty (30) days approve or disapprove of the determination.
- (e) Additional conditions: Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the town and of the county zoning agency.
- (f) Renewals: The procedure as designated in Sections (a), (b), (c), (d) and (e) above shall apply to applications for renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the town and of the county zoning agency.

3. Requirements:

(a) General requirements:

- (1) No part of the quarrying operation shall be permitted closer than one thousand (1,000) feet, nor shall any accessory access road, parking area, or office building be permitted closer than five hundred (500) feet to a district zoned rural home or residential at the time of the grant of permit except with the written consent of the owners of all rural home or residentially zoned properties within one thousand (1,000) feet, except in a quarrying or general industrial district, but in no case shall such operation be permitted closer than two hundred (200) feet to a residential district.
- (2) No quarrying operation shall be permitted except in a quarrying, limited industrial or general industrial district, if thirty (30) or more families reside within a band one-half mile wide around the perimeter of the proposed operation.

(b) Setback requirements:

No part of the quarrying operation other than access roads shall be located closer than two hundred (200) feet, nor shall any accessory parking area, stock pile, or office building be located closer than one hundred (100) feet to the base setback line along any street or highway.

(c) Offset requirements:

No part of the quarrying operation shall be permitted closer than two hundred (200) feet, nor shall any accessory access road, parking area, or office building be permitted closer than fifty (50) feet to any property line except with the written consent of the owner of the adjoining property, or except where said line is abutting a quarrying, limited industrial, or general industrial district, or abutting an existing quarrying operation, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between abutting quarrying operations, or be in conflict with the provisions of Section 3.04(5) relating to preservation of topography.

(d) Operational requirements:

- (1) Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the determination of the town board such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the town board.
- (2) All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust-free condition by surfacing or treatment as directed by the town engineer.
- (3) The crushing, washing, refining, or other processing other than the initial removal of material, may be permitted as an accessory use only as

specifically authorized under the terms of the grant of permit, or as otherwise provided in a quarrying or industrial district.

- (4) In stone quarries the production or manufacturing of veneer stone, sills, lintels, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stock-piling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of permit, or as otherwise provided in a quarrying or industrial district.
 - (5) The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation shall not be permitted except as otherwise provided in a quarrying or industrial district.
 - (6) The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water required will, in the opinion of the town engineer, seriously affect the water supply for other uses in the area.
 - (7) The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the plan commission to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding country-side. Such planting shall be started as soon as practicable, but no later than one (1) year after quarrying operations have begun, and shall be done according to the recommendations of the Waukesha County Park and Planning Commission.
 - (8) Except in a quarrying or general industrial district, quarrying operations shall not begin before the hour of 7:00 a.m. and shall not continue after the hour of 6:00 p.m. and no operation shall take place on Sundays or legal holidays. During periods of national or unusual emergency, time and hours of operation may be altered at the discretion of the town board and through the issuance of a special permit which shall be renewable at thirty-day intervals.
- (e) Restorative Requirements:
- (1) In order to insure that the area of quarrying operation shall be restored to a condition of practical usefulness and reasonable physical attractiveness, the owner or operator shall, prior to the issuance of a permit, submit to the town board a plan for such restoration in the form of the following:

- (a) An agreement with the town whereby the applicant contracts to restore the premises to a condition and within a time satisfactory to the town.
 - (b) A physical restoration plan showing the contours of the restoration, plantings and other special features of restoration, the method by which such restoration is to be accomplished and documentation that the plan complies with the Waukesha County Code of Ordinances – Non-metallic Municipal Mining Restoration Ordinance or other ordinances adopted pursuant to Section 295.14, Wisconsin Statutes and Section NR 135.32(2), Wisconsin Administrative Code.
 - (c) A bond, written by a licensed survey company, a certified check, or other financial guarantee satisfactory to the town, in an amount sufficient in the opinion of the town engineer to secure the performance of the restoration agreement.
 - (d) Such agreement and financial guarantee shall be in a form approved by the town attorney.
- (2) In the event of the applicant's failure to fulfill this agreement, such bond, check, or other financial guarantee shall be deemed forfeit for the purpose of enabling the town to perform the restoration.
 - (3) Restoration shall proceed as soon as practicable and at the order and direction of the town engineer. However, the owner or operator may, at his option, submit a plan for progressive restoration as the quarrying operation is being carried on. The required bond in such case may cover progressive stages of the restoration for periods of not less than two (2) years.
 - (4) At any stage during the restoration the plan may be modified by mutual agreement between the town and the owner or operator.
 - (5) Where there is any backfilling, the material used or the method of fill shall not be such as to create a health hazard nor which would be objectionable because of odor, combustibility, or unsightliness. In any case the finished grade of the restored area except for rock faces, out-croppings, water bodies, or areas of proposed building or paving construction, shall be of sufficient depth of earth to support plant growth.
 - (6) Within one (1) year after the cessation of the operation, all temporary structures (excepting fences), equipment, stock piles, rubble heaps, or other debris shall be removed or backfilled into the excavation so as to leave the premises in a neat and orderly condition.
 - (7) In any restoration procedure which takes place in sand or gravel pits or on other sites where the material is of a loose or friable nature, no slope shall be left which is steeper than a ratio of one and one-half (1 ½)

horizontal to one (1) vertical. In no case shall any slope exceed the normal angle of slippage of the material involved.

(f) Exceptions:

- (1) The provisions of this Section 3.08(7)(S) shall not apply to the removal of sod.
- (2) When the operation is limited to the removal of topsoil, the plan commission may, consistent with the intent of these regulations, modify any or all of the provisions of this Section 3.08(7)(S) provided, however, that in no case shall such operation be permitted closer than ten (10) feet from any property line, or to a depth in excess of eighteen (18) inches or so as to adversely affect the drainage of the area.
- (3) The provisions of this Section 3.08(7)(S) shall not apply to an operation which is incident to legitimate use of the premises, provided, however, where such operation involves the commercial disposal of the material removed, the approval of the plan commission shall be required and such operation shall be limited to a maximum period of six (6) months.
- (4) In a quarrying or general industrial district, the plan commission may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation; and where the character of terrain, surrounding development, or other special conditions would justify, such modification may permit a reduction in the required setback or offset; provided, however, that in no case shall the setback be less than one hundred (100) feet, or the offset be less than one hundred (100) feet for quarrying operations or twenty (20) feet for any accessory access road, parking area, or office building except as may be otherwise provided by Section 3.08(7)(S)3(c).

4. Application to existing operations:

- (a) Permit: Within sixty (60) days after the adoption of this Ordinance all existing quarrying operations shall be required to register with the town clerk submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A conditional use permit shall be granted to such existing operation subject to compliance with the operational requirements, Section 3.08(7)(S) 3(d) of this Ordinance where they can reasonably be applied under existing circumstances.
- (b) Plans for restoration: There shall be required within one (1) year after adoption of this Ordinance, the submission of a plan for restoration of the site of any existing quarrying operation as provided by Section 3.08(7)(S) 3(e). The plan for restoration in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Ordinance.
- (c) Renewal permit: Within three (3) years after the date of this Ordinance any such existing operation shall be required to make application for a renewal permit the

same as for reapplication in the case of a new operation under this Ordinance, except in a quarrying or general industrial district.

SECTION 3.08(7)(T)

Repeal and recreate Section 3.08(7)(T) to read as follows:

- (T) Refuse disposal sites, public and commercial: In any district, other than R-1, R-2, R-3 residential, C-1, HG FLP and FLC Districts subject to the following:
1. The location, building, site plan and plan of restoration shall be submitted to and approved by the Plan Commission, the Zoning Agency, the Waukesha County Department of Parks and Land Use by the Environmental Health Division and Land Resources Division, and the State Department of Natural Resources pursuant to the State solid waste disposal standards.
 2. Such plans shall be approved or disapproved upon consideration of the effects on topography, drainage, water supply, soil conditions, roads and traffic, and present and ultimate land development and use.
 3. Only sanitary landfill refuse disposal methods, subject to the standards established and enforced by the Waukesha County Department of Parks and Land Use, Environmental Health Division, the Department of Natural Resources and the State Board of Health shall be used. Permission to burn refuse before covering must be specifically included in the zoning permit and may be separately withdrawn at any time the smoke or smell constitutes a health or safety hazard. All garbage must be covered to the specified depth prior to the end of the day during which disposal takes place.
 4. A responsible person shall be in attendance during the hours of operation, which hours shall be subject to the approval of the town board. No refuse disposal shall take place except during the specified hours of operation, and with the attendant present.
 - (a) A non-flammable fence, with a gate which can be locked, must be erected to encompass the disposal site to prevent refuse disposal and scavenging during non-operating hours, and the attendant shall retain the key.
 - (b) Such fence, and additional auxiliary portable fence, such as snow fence, that will minimize the nuisance of blowing paper, shall be approved by the Town Board.
 5. Requirements:
 - (a) Setback: No refuse disposal shall take place, nor shall structures pertinent thereto be constructed closer than two hundred (200) feet to the base setback line.
 - (b) Offset: No refuse disposal shall take place closer than two hundred (200) feet to any lot line, nor shall refuse disposal take place closer than five hundred (500) feet to any existing dwelling or the site of a dwelling for which a building permit has been issued prior to the application date for the conditional use permit; nor closer than five hundred (500) feet to a district zoned R-1, R-1a, R-2 or R-3 Residential, at the time of the grant of the permit. No refuse disposal shall take place closer than five hundred (500) feet to a permanent business or industrial structure without the written consent of the owner of that adjacent property and

the written approval of the Waukesha County Department of Parks and Land Use, Environmental Health Division and the State Department of Natural Resources.

- (c) Additional Requirements: Restrictions as to the types and sources of refuse, if needed, shall be the responsibility of the Town Board under the advisement of the Waukesha County Department of Parks and Land Use, Environmental Health Division. A planting plan as approved by the Zoning Agency shall be included in the plan of operation.
6. All existing refuse disposal operations shall be registered by the operator within sixty (60) days after the adoption of this Ordinance with the town clerk, submitting pertinent data relative to present operation, including the boundaries of the actual operation and ownership. A permit shall be granted to such existing operation subject to compliance with a plan of operation satisfactory to the approving bodies. A plan of restoration shall be submitted to the town by the operator within one (1) year of the adoption of this Ordinance, together with a surety bond to insure such restoration. Such operation and restoration plans shall not impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Ordinance.

SECTION 3.08(7)(U)

Repeal and recreate Section 3.08(7)(U) to read as follows:

- (U) Restaurants, Supper Clubs, Resorts, Taverns and Similar Uses: In B-2 and B-3 Business districts such uses shall be considered permitted uses by right. In all other districts, except the C-1, A-T, FLP, FLC, HG, A-B, A-5, P-1 and EC Environmental Corridor districts, the above uses shall be considered conditional uses, subject to the following:
- 1. The location and building plans and a Site Plan and Plan of Operation shall be submitted to and approved by the plan commission and the zoning agency.
 - 2. The minimum lot area shall be two (2) acres with at least two hundred (200) feet in minimum average width.
 - 3. Off-street parking shall be provided within two hundred (200) feet of the building in which such use is occurring, but offset twenty (20) feet from any lot line of an adjacent property zoned agricultural and any residential zoning district. The amount of space required shall be in accordance with the requirements contained in Section 3.12(1)(C).
 - 4. A planting screen of at least six (6) feet in initial height shall be provided between any abutting residential district and the proposed use. Additional planting screens may be requested by the plan commission or county zoning agency.
 - 5. The proposed building shall be offset at least fifty (50) feet from any abutting residential district and one hundred (100) feet from any navigable body of water.

SECTION 3.08(7)(W)

Repeal and recreate Section 3.08(7)(W) to read as follows:

- (W) Commercial Truck Parking: Such uses are uses permitted by right in B-3 Industrial and Quarrying Districts. In all residential, agricultural, FLP, FLC, HG, B-1 and B-2 business districts, except the EC Environmental Corridor District and the C-1 Conservancy District, subject to the following:
1. The parking and the storage of commercial type vehicles, dump trucks, school buses, construction vehicles, semi trailers and tractors may be allowed as long as the vehicle is owned or leased and operated by the owner or occupant of the premises. No such use shall be allowed on any parcel, except as may front directly upon and have access to an arterial or collector street as defined herein.
 2. No more than one (1) such vehicle shall be allowed to be parked or stored on the occupant's property and no more than two (2) additional construction vehicles (backhoes, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully operative and in active use. Where considered appropriate, two (2) trailers may be allowed, but in no case may there be more than one (1) semi tractor or "cab" unit.
 3. No such vehicle shall be allowed to be parked or stored closer than fifty (50) feet to any adjacent lot line, and not closer than one hundred (100) feet from the base setback line. In the case of refrigerator trucks, the refrigeration unit may not be operated in the open if said truck is parked closer than five hundred (500) feet to the nearest neighboring residential property line.
 4. In determining whether or not the proposed Conditional Use Permit should be issued, a determination of compatibility with adjacent land uses shall be made to the Town Plan Commission and County Zoning Agency in issuing this Conditional Use Permit. If it is determined that it would in any way be incompatible and represents an adverse effect or nuisance to adjacent land uses, the Conditional Use Permit shall not be issued.
 5. The Conditional Use Permit shall be reviewed every two (2) years by the Town Plan Commission in order to determine conformance with the terms of the permit, and if it is determined that the use is no longer compatible with adjacent land uses as they develop in the vicinity, the Conditional Use Permit may be revoked in accordance with the revocation procedures contained in this Ordinance.

SECTION 3.08(7)(X)

Repeal and recreate Section 3.08(7)(X) to read as follows:

- (X) Other uses or situations not specifically provided for in this conditional use Section and which may be determined to be acceptable under the provisions of Section 3.07(3) and in the judgment of the plan commission and county zoning agency meet the intent of a conditional use as set forth in Section 3.08(1). Any such uses within the FLP or FLC Districts shall comply with all terms of Section 6.1.

SECTION 3.08(7)(Y)

Repeal and recreate Section 3.08(7)(Y) to read as follows:

- (Y) Bed and Breakfast Facility: In all districts, except the HG High Groundwater, C-1 Conservancy, FLP Farmland Preservation and FLC Farmland Conservancy Districts. The intent is to provide travelers with temporary accommodations and breakfast, for a fee, on a daily or weekly room

rental basis, as an accessory use in any existing structure designed for and occupied as a single family residence in any district permitting single family residences subject to the following:

1. The location, building and site plans, and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.
2. Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located. For buildings with significant architectural or historic value, the architectural integrity and arrangement of existing interior spaces must be maintained and the number of guest rooms shall not be increased except as may be required to meet health, safety, and sanitation requirements.
3. Off-street parking shall be provided at the rate of one (1) parking space for each room rented. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened from view with natural plant material, and found to be compatible with the neighborhood.
4. The number of rooms shall be limited to five (5) sleep-in rooms or less, excluding those used by the occupants of the facility, and no room may contain more than two (2) beds. There must be at least five hundred (500) square feet of gross interior floor area for each sleeping room. Those facilities providing service to a greater number of guests are not considered "license exempt" under state law and must comply with state hotel/motel/restaurant licensing procedures administered by the County or State Health Department. The issuance of such licenses shall not be considered as conferring non-conforming commercial status to the use which would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use beyond the scope of this Section.
5. One (1) on-premise sign may be allowed provided that such sign is compatible with the residential use of the site and its surrounding areas and is not more than fifteen (15) square feet in size with letter sizes not less than five (5) inches in height.
6. All necessary State and County permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.
7. Room rentals to families or individuals shall not exceed fourteen (14) consecutive days.
8. The bed and breakfast facility must be accessory to and contained within the single family dwelling occupied by the owner (e.g., not a manager) of said premises.
9. The only meal to be provided to travelers/guests shall be breakfast and it shall only be served to guests taking lodging in the facility.
10. The Waukesha County Department of Parks and Land Use, Division of Environmental Health, shall examine both the water system and the sewage disposal system, and shall conduct a general health and safety inspection of the proposed facility. The Department may impose any conditions required to ensure that all necessary health and safety standards have been met. The applicant shall not: initiate any construction activity and other improvements related to the bed and breakfast facility; or begin operation of the facility until receiving a determination, in writing, by the Department that the necessary inspections have been completed and any deficiencies have been corrected. The

proprietor shall have a water quality evaluation conducted by a recognized water testing laboratory on an annual basis following the certification of adequacy by the Department. The results of that test shall be submitted to the Department with a copy to the Zoning Administrator. All requirements must be incorporated into the terms of the conditional use permit.

SECTION 3.08(7)(Z)

Repeal and recreate Section 3.08(7)(Z) to read as follows:

- (Z) In-Law Unit: In any Residential, Agricultural, B-1 or B-2 zoning district, except FLC, subject to the following. Such uses in the FLP District shall comply with all density provisions of Section 6.1, in addition to the below requirements:
1. The location, building plan, site plan and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.
 2. The Waukesha County Department of Parks and Land Use, Division of Environmental Health, shall certify that the septic system will accommodate the proposed use and is in accordance with COMM 83, County and State Sanitary Codes.
 3. Maximum living area of the in-law unit shall not exceed eight hundred (800) square feet and shall contain no more than two (2) bedrooms. There shall be an additional parking space for the in-law unit. There shall be no more than one (1) in-law unit per single family lot.
 4. Architecture of the residence shall be compatible with the adjacent residential neighborhood and shall appear to be a single family residence. All other appropriate zoning district requirements for the principle living unit shall be complied with. A common entrance to the residence and in-law unit should be designed into the structure so that a separate front entrance, off of the common entrance, is available and the structure does not appear to be a duplex.
 5. The Plan Commission and the County Zoning Agency shall determine if it is appropriate to have an interior door between the in-law unit and the principal residence.
 6. A Deed Restriction shall be filed in the Waukesha County Register of Deeds office and a copy of the recorded document presented to the Building Inspector prior to issuance of the Building Permit. This Deed Restriction shall state that the in-law unit is to be occupied by persons related by blood or marriage to the family occupying the principal unit and that the Conditional Use is not transferable without formal approval of the County Zoning Agency without necessity of a public hearing and that the unit will be used as intended.

(Sections 3.08(7)(AA), (7)(N), (7)(S)3(e)(1)(b), (7)(S)3(f)(4), (7)(U)(1), (7)(Y)(10), (7)(Z)2 were amended by Enrolled Ordinance 159-69, effective 1-17-05.)

(Sections 3.08(7)(H) and (KK) were created by Enrolled Ordinance 159-69, effective 1-17-05.)

(Sections 3.08(7)(E)2, 3.08(7)(P)1(a), 3.08(7)(P)2, 3.08(7)(T)1, 3.08(7)(T)3, 3.08(7)(T)5(b), 3.08(7)(T)5(c) and 3.08(7)(W)1 were amended by Enrolled Ordinance 161-13, effective 09/04/06.)

(Section 3.08(3) was amended by Enrolled Ordinance 162-48, effective 10-9-07.)

(Section 3.08(7) (B) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Section 3.08(7) (KK) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Section 3.08(7) (N) was amended by Enrolled Ordinance 167-24, effective 07-24-12.)

(Section 3.08(7) (P)(2)(a) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Section 3.08(7) (P)(2)(b) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

(Section 3.08(7) (P)(2)(g) was amended by Enrolled Ordinance 169-46, effective 09-09-14.)

SECTION 3.12(3)(C)

Repeal and recreate Section 3.12(3)(C) to read as follows:

- (C) A conditional use permit pursuant to Section 3.08(7)(W) may be granted to permit the parking of commercial or industrial type vehicles in any zoning district except C-1 conservancy . In business and industrial districts where such vehicles are necessary to an otherwise permitted business or commercial use, a conditional use permit will not be required and there are no limitations as to the number of such vehicles which may be parked on the property except as may be hereinafter established under the provisions of the applicable zoning district.

SECTION 4.01

Repeal and recreate Section 4.01 to read as follows:

4.01 Establishment of districts

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

C-1	Conservancy District.
C-1	Conservancy Overlay District.
FLC	Farmland Conservancy District.
FLP	Farmland Preservation District.
A-B	Agricultural Business District.
A-O	Existing Agricultural Overlay District.
A-T	Agricultural Transition District.
AD-10	Agricultural Density District.
A-5	Mini-farm District.
EC	Environmental Corridor District.
EC	Environmental Corridor Overlay District.
A-1	Agricultural District.
A-1a	Agricultural District.
HG	High Groundwater District.
A-2	Rural Home District.
A-3	Suburban Estate District.
RRD-5	Rural Residential Density District
R-1	Residential District.
R-1a	Residential District.
R-2	Residential District.
R-3	Residential District.
P-I	Public and Institutional District.
B-1	Restricted Business District.
B-2	Local Business District.
B-3	General Business District.
B-4	Community Business District.
BP	Mixed Use Business Park District.
Q-1	Quarrying District.
M-1	Limited Industrial District.
M-2	General Industrial District.

SECTION 4.02(2)(B)

Repeal and recreate Section 4.02(2)(B) to read as follows:

- (B) The boundaries of the C-1 Conservancy and the FLC Districts as drawn are intended to represent the edge of swamp, marsh, and floodland or the high water line along a stream or watercourse, and shall be finally determined by the actual conditions in each specific situation, provided, however, that along a stream or watercourse, such line shall not be less than one hundred (100) feet from the center of such stream or watercourse.

SECTION 5.01(E)

Repeal and recreate Section 5.01(E) to read as follows:

- (E) Dams and hydro-electric power stations. Said uses must comply with the requirements of Section 6.14(E) if located within the FLC District.

SECTION 5.01(F)

Repeal and recreate Section 5.01(F) to read as follows:

- (F) Telephone, telegraph and power transmission lines. Said uses must comply with the requirements of Section 6.14(E) if located within the FLC District.

SECTION 5a

Create Section 5a to read as follows:

SECTION 5a C-1 CONSERVANCY OVERLAY DISTRICT

All parameters and requirements of Section 5 C-1 Conservancy District shall apply to lands mapped C-1 Conservancy Overlay District. The underlying base zoning district designation standards shall only be applicable if an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped. All references to the C-1 District or C-1 Conservancy District within this Ordinance shall also apply to the C-1 Conservancy Overlay District.

SECTION 6

Repeal and recreate Section 6 to read as follows:

SECTION 6 FLC FARMLAND CONSERVANCY DISTRICT

A. Purpose and intent

This district is intended to apply to those areas that are designated on the Comprehensive Development Plan for Waukesha County for Farmland Preservation and which are presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and/or the presence of natural vegetation indicative of wet soils. The intent of the district is to preserve and maintain agricultural uses on lands suited for such purposes. They often include lands poorly suited for urban or suburban development while being particularly well suited for some types of agricultural use.

In this district, structures related to farm operations, including existing dwellings, are deemed consistent with the purpose of this section where the location of buildings associated with the permitted agricultural operation is found to conform with health, sanitation and safety provisions

of this and any other state regulation or local ordinance. Determination of such suitability shall be evidenced by on-site examination and evaluation. The intent for mapping purposes is that lands within this district shall have exhibited those agricultural uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. If a new lot of less than 35 acres is proposed and a portion of the lands to be included in the lot area are zoned FLC District, said lands may only be included within the lot area if the proposal complies with the siting, density, area, etc. parameters of the FLP District.

B. Use regulations: Permitted uses

1. Any uses and structures permitted in the C-1 Conservancy district and if located in a wetland, the provisions of Section 5 shall apply.
2. Agricultural Uses, as defined within this Ordinance, except fur and pig farms and poultry and/or egg production which require Conditional Use authorization pursuant to Section 6 C.4. Such uses shall not fill or convert wetlands or floodplains.
3. Agricultural Accessory Uses including existing single-family dwellings that existed on January 1, 2014 and shelters for housing animals that comply with Section 2.02 (12) of this Ordinance or permitted as an appurtenance to a Farm Residence, except that no structure shall be located in a wetland or upon lands not suited due to soil limitations.
4. Nurseries, greenhouses and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3.03(6) of this Ordinance.
5. Road side stands, subject to the provisions of Section 6.14(B)(5).
6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.

C. Conditional uses

Conditional uses, as provided in Section 4(g) and listed below, and in accordance with the procedural requirements of Section 4(g) and the provisions of Section 6.15:

1. Landing Fields and Take Off Strips serving agricultural or municipal uses.
2. Animal Hospitals and Veterinarian Clinics; and Commercial Dog Kennels but only if they comply with the Farm Family Business provisions of ATCP 49.
3. Commercial Truck Parking, except that such use may be allowed but only if incidental to and compatible with the continued long term agricultural use of the lands as determined by the Town Plan Commission and the County Zoning Administrator and comply with the Farm Family Business provisions of ATCP 49.
4. Fur Farms, Pig Farms, Creameries, Condensories, Commercial or Custom Grain Drying Operations and Poultry and/or Egg Production.
5. Existing non-metallic mineral extraction or quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the

continued long term agricultural use of the lands which make up the major portion of lands in the FLC or FLP Districts (i.e., sand and gravel removal on non-productive lands, for example).

6. Private Clubs and Resorts (including commercial boarding stables), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., private hunt clubs during the non-growing season, for example).
7. Land altering activities in accordance with the requirements of Section 3.08(7)(AA), provided such activities do not negatively affect the long-term suitability of the lands for agricultural purposes.
8. Limited Family Businesses, as provided for and in accordance with all parameters of Section 3.08(7)(KK). Said uses must comply with the Farm Family Business provisions of ATCP 49.
9. In-law units, pursuant to Section 3.08(7)(Z), provided that the density requirements of the Farmland Preservation Plan are complied with.
10. Other uses, situations, or nonfarm type businesses not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 6.15 and in the judgment of the Town Plan Commission and County Zoning Agency, meet the intent of a conditional use as set forth in Section 3.08(1) and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

D. Building location

1. Setback: Thirty-five (35) feet minimum
2. Offset: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

E. Height regulations

1. Residential buildings:
 - a. Residential Use Structure: Thirty-five (35) feet maximum.
 - b. Accessory Building: Twenty (20) feet maximum.
2. Farm buildings:
 - a. Sixty (60) feet maximum.
 - b. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, C-1 Conservancy setback and offset all equal or exceed the height of the structure.
 - c. Refer to Section 3.10 of this Ordinance for additional height regulations.

F. **Area regulations**

1. Floor area: Minimum required for single-family dwelling where permitted.
 - a. Minimum required:
 1. First floor: Nine hundred (900) square feet.
 2. Total, one (1) family: One thousand (1,100) square feet.
 - b. Minimum and maximum parcel size:
Parcel Size must comply with the parameters of Section 6.19.
 - c. Maximum floor area ratio permitted: Ten (10) percent

G. **Rezoning lands out of the FLC District**

1. Except as provided in Section 6(G)(2), lands may not be rezoned out of the FLC District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - b. The rezoning is consistent with any applicable comprehensive plan.
 - c. The rezoning is substantially consistent with the Waukesha County Farmland Preservation Plan, which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
2. Subsection 6(G)(1) does not apply to any of the following:
 - a. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.
 - b. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
3. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLC District during the previous year and a map that clearly shows the location of those acres.

SECTION 6.1

Repeal and recreate Section 6.1 to read as follows:

SECTION 6.1 FLP FARMLAND PRESERVATION DISTRICT

6.11 Purpose and Intent

The intent and purposes of the FLP Farmland Preservation District are:

- A. To maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses.
- B. To maintain a viable agricultural base and associated agricultural supportive uses.
- C. To protect and preserve the rural landscape.
- D. To implement the provisions of the Waukesha County Farmland Preservation Plan.
- E. To comply with the provisions of the Wisconsin Farmland Preservation Law which permits eligible landowners to receive tax credits under Section 71 of the Wisconsin State Statutes.
- F. To maintain a use that adds to the economic base of the County.

6.12 Lands to be included within the FLP Farmland Preservation District. Lands that are to be included or mapped within the FLP District are limited to those lands that have been designated for farmland preservation in the adopted Waukesha County Farmland Preservation Plan.

6.13 Land Uses in the FLP Farmland Preservation District; General. Only the following land uses are allowed in a Farmland Preservation District:

- A. Uses allowed under Section 6.14 as a Permitted Use.
- B. Uses allowed under Section 6.15 with a Conditional Use Permit.
- C. Legal nonconforming uses, subject to Wisconsin State Statutes.

6.14 Use Regulations: Permitted Uses

- A. Agricultural Uses as defined in this Ordinance except fur and pig farms and poultry and/or egg production which require Conditional Use authorization pursuant to Section 6.15 C.6.
- B. Agricultural Accessory Uses as defined in this Ordinance and subject to the following requirements:
 - 1. Caretaker's quarters/living unit Farm Residence if the unit is within 200 feet of the existing cluster of farm buildings, is served by a common driveway, and is intended and necessary for the farm operation and provides a living unit or quarters for hired employees of the farming operation and their immediate family. Only one Farm Residence is permitted on a lot. An In-law Unit requires a conditional use permit.
 - 2. Home occupations as regulated in Section 7.01(F) of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by the Wisconsin Department of Agriculture, Trade and Consumer

Protection (DATCP).

3. Private hobby kennels as regulated in Section 7.01(I) of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by DATCP.
 4. Farm buildings housing animals, barnyards, and feedlots that are not located within a floodland, nor closer than one hundred (100) feet to any navigable water course, nor closer than one hundred (100) feet to an existing adjacent dwelling.
 5. Road Side Stands.
 - a. Temporary road side stand structures shall be no more than 100 square feet in size.
 - b. Off-street parking for a minimum of five (5) vehicles must be provided and there shall be no parking within the right-of-way of the public road.
 - c. No such stand shall be closer than thirty (30) feet to the base setback line or closer than twenty (20) feet to any lot line.
 - d. Only produce and farm products can be displayed for sale.
 - e. Road side stands with a permanent building shall require Site Plan and Plan of Operation approval in accordance with Section 3.03(6) of this Ordinance and shall comply with all size and locational requirements of the zoning district in which a stand is located.
 6. Nurseries, orchards, greenhouses/horticulture/floriculture, viticulture, apiculture, forestry, and hatcheries limiting the retail sales of such product to that which is produced on the premises by the farm operator. Commercial or wholesale nurseries must obtain Site Plan/Plan of Operation in accordance with the requirements of Section 3.03(6).
 7. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.
- C. Agriculture-related uses as defined in this Ordinance and subject to the requirements of Chapter 91 of the Wisconsin Statutes and subject to the review and approval of a Site Plan and Plan of Operation by the Plan Commission and the Zoning Administrator in accordance with Section 3.03(6) of this Ordinance.
- D. Pre-existing Nonfarm Residences that existed as of January 1, 2014 and Farm Residences that existed as of May 31, 2015.
- E. A transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc) transmission, distribution, or pipeline, drainage, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that pre-empts the requirement for a Conditional Use Permit for that use as outlined in Section 6.15(C)(3) below.
- F. Legal non-conforming uses.

- G. Other uses identified by DATCP rule and which are deemed consistent with the stated purpose and intent of this District subject to approval of the Town Plan Commission and the Zoning Administrator. The Zoning Administrator shall make a determination as to whether such uses must obtain Conditional Use approval for unspecified uses.

6.15 Use Regulations: Conditional Uses

- A. Conditional uses as provided for in Section 3.08 and Section 6.15(C) and pursuant to the procedural requirements of Section 3.08, and if all of the following apply:
 - 1. The use and its location in the FLP District are consistent with the purposes and intent of the FLP District.
 - 2. The use and its location in the FLP District are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - 3. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - 4. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - 5. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
 - 6. The use does not conflict with surrounding land uses.

The following additional standards apply to Non-Metallic Mineral Extraction or Quarrying Conditional Use requests:

- 7. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. § 295.13 or Wis. Stat. § 295.14 (including all applicable provisions of this Ordinance), and with any applicable requirements of the Department of Transportation concerning the restoration of nonmetallic mining sites.
 - 8. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
 - 9. The requirements of 3.08(S) of the Ordinance shall be met.
- B. Prior to the issuance of a Conditional Use Permit for an approved Conditional Use in the FLP District, any requirements listed for an individual Conditional Use under Section 3.08(7), in Section 6.15 of the FLP District, or imposed as part of the Conditional Use approval must first be satisfied.
- C. The list of Conditional Uses that may be applied for within the FLP District is as follows:

1. Government, nonprofit community uses, institutional, buildings for religious assembly, cemeteries and mausoleums for the burial of human remains only, and other public and semi-public buildings and uses – as defined in this Ordinance.
2. Non-Metallic Mineral Extraction or Quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., sand and gravel removal on non-productive lands, for example).
3. Transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc.) transmission, distribution, or pipeline, drainage, or other uses not allowed as a permitted use in Section 6.14(E) above and in accordance with Chapter 91 of the Wisconsin Statutes.
4. Animal Hospitals and Veterinarian Clinics; and Commercial Dog Kennels but only if they comply with the Farm Family Business provisions of ATCP 49.
5. Commercial Truck Parking, except that such use may be allowed but only if incidental to and compatible with the continued long term agricultural use of the lands as determined by the Town Plan Commission and the County Zoning Administrator and comply with the Farm Family Business provisions of ATCP 49.
6. Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations and Poultry and/or Egg Production.
7. Landing Fields and Take Off Strips serving agricultural or municipal uses.
8. Private Clubs and Resorts (including commercial boarding stables), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., private hunt clubs during the non-growing season, for example).
9. Land altering activities in accordance with the requirements of Section 3.08(7)(AA), provided such activities do not negatively affect the long-term suitability of the lands for agricultural purposes.
10. Limited Family Businesses, as provided for and in accordance with all parameters of Section 3.08(7)(KK). Said uses must comply with the Farm Family Business provisions of ATCP 49.
11. In-law units, pursuant to Section 3.08(7)(Z), provided that the density requirements of the Farmland Preservation Plan are complied with.
12. Other uses, situations, or nonfarm type businesses not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 6.15 and in the judgment of the Town Plan Commission and County Zoning Agency, meet the intent of a conditional use as set forth in Section 3.08(1) and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

6.16 Building Location

Residential use structures must comply with the requirements of Section 6.19 and structures are subject to the following locational requirements:

A. Road Setback:

1. Residential Use Structure: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance.
2. Accessory or Farm Building: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

B. Offset:

1. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.
2. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

- C. C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance.

6.17 Height Regulations

A. Residential buildings:

1. Residence: Thirty-five (35) feet maximum.
2. Accessory: Twenty (20) feet maximum.

B. Farm buildings:

1. Sixty (60) feet maximum.
2. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, C-1 setback, and offset all equal or exceed the height of the structure.

- C. Refer to Section 3.10 of this Ordinance for additional height regulations.

6.18 Area Regulations

- A. Floor area, minimum required: Minimum first floor - nine hundred (900) square feet. Total floor area – one thousand one hundred (1,100) square feet.
- B. Maximum floor area ratio permitted: Ten (10) percent.

6.19 New Residences and Lots

New residences and new lots or parcels of less than 35 acres shall be prohibited on lands zoned FLP District and shall only be authorized if in accordance with the following requirements:

- A. Rezoning required. New residences and new lots or parcels of less than 35 acres in area are not permitted within the FLP District without the benefit of rezoning. If a new residence or lot of less than 35 acres is proposed for lands currently zoned FLP District, the land must first be rezoned to the R-1 Residential District where farm or nonfarm residences are a permitted use. Lands to be rezoned must comply with the density parameters of the Comprehensive Development Plan for Waukesha County that are described in detail in Section 6.19(B) below. Prior to submitting an application to rezone lands currently zoned FLP District, petitioners shall participate in a concept review meeting to be held with the respective town Planner and Waukesha County Planning & Zoning Staff to discuss proposed density and lot siting and compliance with the below stated requirements of this section.

If a lot of less than 35 acres is permitted via the rezoning process, the remnant lands can be less than 35 acres in area provided that a deed restriction is recorded against said lands prohibiting construction of residences or nonfarm buildings.

New Nonfarm Residences must also comply with the standards set forth in Chapter 91.

- B. Density. A maximum density of one (1) dwelling unit per thirty-five (35) acres shall be permitted for lands designated for Farmland Preservation on the adopted Comprehensive Development Plan for Waukesha County. Existing dwelling units and land divisions that have taken place after the dates specified below shall be used in computing available density. If part of a parcel is within the County's shoreland jurisdictional area, the entire property's acreage, number of existing dwelling units and prior land divisions from parent parcels shall be considered in determining available density.
 - 1. Density Considerations- land divisions after January 1, 1997: New lots or parcels of less than 35 acres that were created from a parent parcel or parcels that comprised a farm, as it existed on January 1, 1997, and that were located on lands designated "Agricultural Preservation" or "Farmland Preservation" at the time of land division on the Comprehensive Plan for Waukesha County, shall be counted in determining the available density or "development rights" remaining for a farm as it was configured on May 31, 2015. The number of available development rights shall be reduced by one development right for each such lot that was created after January 1, 1997. Farm boundaries, as of May 31, 2015, have been mapped on the "Farm Tracking Unit" layer on the Waukesha County GIS website in order to make available density information readily available. Density tracking is further described in Section 6.19(B)(4).

Example: 105 acre farm comprised of two parcels in the same ownership.

Step 1- 35 Acre Density Calculation = 105 acres/35= 3 (Maximum number of dwelling units before consideration of existing dwelling units and recent land divisions).

Step 2- Account for existing dwelling units and land divisions that created parcels of less than 35 acres after January 1, 1997: The farm contains one house. (counts as one dwelling unit) and a lot of less than 35 acres was split from the farm by Certified Survey Map in 2001 (counts as second available dwelling unit)= total of 2.

Step 3- Subtract total of Step 2 from Step 1 to adjust for existing dwelling units and parcels of less than 35 acres created since January 1, 1997. (3 minus 2= 1).

*Summary- Available dwelling units/Development rights:
Farm is entitled to one additional dwelling unit or development right.*

2. Density Exception for Legal Lots of Record that existed on May 31, 2015: Existing legal lots of record as of May 31, 2015 that are less than thirty-five (35) acres in size shall be entitled to one (1) dwelling unit if a dwelling unit does not already exist on the parcel, with the following exceptions:
 - a. If new lots or dwelling units have been created from a parent parcel or farm after 1997 without the benefit of a comprehensive development plan amendment from the Farmland Preservation category to another appropriate land use category, and thirty-five (35) acre density cannot be maintained with the addition of another dwelling unit, then no additional dwelling units are permitted.
 - b. If a prior imposed rezoning condition, deed restriction, conveyance, or some other official action prohibiting future land splits or dwelling units exists, then no additional dwelling units shall be permitted on said existing legal lot of record.
3. Review of Land Divisions. All land divisions, including transfers of adjacent land, that are proposed in towns that are subject to the Waukesha County Zoning Code and involve land that is in the planned "Farmland Preservation" category of the Comprehensive Development Plan for Waukesha County shall be reviewed and approved by the respective town and Waukesha County, regardless of whether the parcel contains shoreland jurisdiction, so that Development Plan density compliance can be ensured and tracked over time.

Each residence that is permitted shall be placed on a separately described parcel created in conformance with the town and County Comprehensive Development Plans, the Farmland Preservation Plan, the minor land division regulations of the town in which they are located, this Ordinance, and the Waukesha County Shoreland Floodland Subdivision Control Ordinance (Appendix D), as applicable.

4. Density Tracking. Available density or dwelling units are tracked by a mapping layer on the Waukesha County Geographic Information System. Each farm

consisting of one or more contiguous parcels that were owned by a common owner or owners as of May 31, 2015 have been assigned a "Farm tracking unit" name and number. Farm Tracking Units have been created to track the number of lots or dwelling units (development rights) that a farm or farm owner is entitled to when applying the density considerations of Section 6.19(B)(1) and (2).

Each time that a new dwelling unit or lot is created in the future, in accordance with the standards of Section 6.19, the Farm Tracking Unit data will be updated on the Waukesha County GIS. In addition, a deed restriction must be recorded against the land to disclose the remaining density available to a given Farm Tracking Unit.

5. Density Transfer. Transfer of density rights from one Farm Tracking Unit to another Farm Tracking Unit or property must be approved by the respective town and Waukesha County Zoning Administrator and will be tracked on the farm tracking unit Waukesha County GIS layer. A deed restriction must be recorded against the land to disclose the density transfer.

C. Siting Standards.

Lands that are zoned FLP but that are proposed to be rezoned to the R-1 District to accommodate new nonfarm residences must comply with the following siting standards. Compliance with siting standards shall be considered by the town and Waukesha County as part of the rezoning review process.

1. New residences or lots shall be located on uncultivated lands to the greatest extent practicable.
2. New residences or lots shall be clustered together to the greatest extent practicable.
3. New residences or lots shall be located on non-prime (non-Class I and II) soils to the greatest extent practicable.
4. New residences or lots may be permitted within upland Environmental Corridor areas that are zoned FLP District with an EC Overlay District designation provided that the area to be disturbed is rezoned to the R-1 District and provided that the respective town and County have made a determination that alternative building sites located outside of the environmental corridor and cultivated lands are not available. If such a determination is made, the maximum area of Environmental Corridor disturbance shall be 15,000 square feet per lot, inclusive of drive areas, septic sites, building sites and any other area to be disturbed. In addition, any authorized disturbance within the Environmental Corridor shall comply with County Comprehensive Development Plan recommendations which call for no more than one dwelling unit per five acres of upland area. A deed restriction shall be recorded in the office of the Register of Deeds identifying and describing the permitted area of Environmental Corridor disturbance prior to Zoning Permit issuance.
5. Lots shall be located near existing roads to the extent practicable with consideration of the above stated criteria.

- D. Lot Size requirements for Lots created by rezoning from the FLP District to the R-1 District
 - 1. Minimum parcel size, one (1) acre.
 - 2. Minimum average width for parcels, one hundred and fifty (150) feet.
 - 3. Maximum parcel size, three (3) acres, except as may be provided in Section 6.19(E) below for those residual existing dwellings and parcels that result due to Farm Consolidation.

- E. Lot Size for Farm Consolidations created by rezoning from the FLP District to the R-1 District
 - 1. Minimum parcel size, one (1) acre.
 - 2. Minimum average width: One hundred and fifty (150) feet.
 - 3. Maximum parcel size, five (5) acres.

6.19a. Rezoning Land Out of the FLP District

- A. Except as provided in Section 6.19a(B), lands may not be rezoned out of the FLP District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - 1. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - 2. The rezoning is consistent with any applicable comprehensive plan.
 - 3. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.
 - 4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.

- B. Subsection 6.19a(A) does not apply to any of the following:
 - 1. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.
 - 2. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

- C. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLP District during the previous year and a map that clearly shows the location of those acres.

SECTION 6.24(2)(A)

Repeal and recreate Section 6.24(2)(A) to read as follows:

- (2) Offset:

- (A) Buildings used for commercial purposes which include the housing of livestock, one hundred (100) feet minimum unless adjacent district is the FLP, A-B, A-O or FLC districts, in which case twenty (20) feet minimum shall apply.

SECTION 6.31

Repeal and recreate Section 6.31 to read as follows:

6.31 Purpose

The purpose of this district is to allow for the continued agricultural use of land while recognizing that other land uses of a rural or semi-rural nature other than farming or agricultural may be needed in the general area. It is anticipated that the assignment of this overlay district to specific parcels of land will provide a greater degree of freedom for farm operators and for town plan commissions, town boards and the county zoning agency in dealing with situations where present owners are committed to continuing the agricultural use and the potential of incompatibility is present. The basic intent of the district is similar to that upon which conditional uses in this Ordinance are premised. This district will grant the uses permitted in the FLP district as well as the uses of the underlying basic district.

SECTION 6.4

Repeal and recreate Section 6.4 to read as follows:

Section 6.4 A-T AGRICULTURAL TRANSITION DISTRICT

- A. **Purpose and intent**
This district is intended to reflect the transitional nature of lands that are currently in agricultural or open space use but are planned for and are likely to be developed for other land uses over time.
- B. **Land to be included with A-T Agricultural Transition District:**
 - 1. Lands used for agricultural purposes.
 - 2. Vacant lands consisting of fallow or natural resource lands.
- C. **Use regulations: Permitted uses**
Any permitted use as described in the A-1 Agricultural District.
- D. **Conditional uses**
Conditional uses as provided in Sections 3.08(7) A, AA, B, D, E, F, G, I, K, KK, Q, R, S, T W, X, Y and Z.
- E. **Building location**
 - 1. Road Setback:
 - a. Residential Use Structure: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance.

- b. Accessory or Farm Building: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.
2. Offset:
- a. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.
 - b. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.
3. C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance. All accessory buildings must be seventy-five (75) feet minimum.

F. **Height regulations**

1. Residential buildings:
 - a. Residence: Thirty-five (35) feet maximum.
 - b. Accessory: Twenty (20) feet maximum.
2. Farm buildings:
 - a. Sixty (60) feet maximum.
 - b. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, C-1 setback, and offset all equal or exceed the height of the structure.
3. Refer to Section 3.10 of this Ordinance for additional height regulations.

G. **Area regulations**

1. Floor area, minimum required:
 - a. Minimum first floor - nine hundred (900) square feet.
 - b. Total floor area - one thousand and one hundred (1,100) square feet.
2. Maximum floor area ratio permitted: Ten (10) percent.

H. **Lot size**

1. Minimum parcel size: Twenty (20) acres.
2. Minimum average width: Three hundred (300) feet.

SECTION 6.51(A)3

Repeal and recreate Section 6.51(A)3 to read as follows:

3. This district encourages the transfer of residential development rights from one area of a parcel to another, from one tract of land to another, and from the RRD-5, AD-10, HG and C-1 districts thereby allowing the increase in density of development on suitable lands for development in exchange for establishing the preservation of more desirable agriculturally productive lands known as "agricultural preserved lands."

SECTION 6.51(A)4

Repeal and recreate Section and 6.51(A)4 to read as follows:

4. The transfer of development rights may only take place between the RRD-5, the AD-10, C-1 and HG districts, except that only a maximum of 20% of the transferring land zoned C-1 Conservancy may be counted toward the overall density to be provided for the receiving land.

SECTION 6.51(B)2

Repeal and recreate Section 6.51(B)2 to read as follows:

- 2. Only 20% of the C-1 zoned areas may be used when calculating the overall density. Where more than 50% of the site is zoned in the C-1 category, only that amount of acreage up to the 50% amount may be used in the above calculation for purposes of computing allowed density. Where the calculation results in a fraction of .5 or greater, the density may be "rounded up". This rule shall apply only when a local Land Use Plan has been adopted and specifically addresses the issue of crediting such areas for development purposes.

EXAMPLE: 100 acres	Tract of Land	
	90 acres	Zoned C-1
	10 acres	Zoned AD-10

50% of 90 acres = 45 acres
 20% of 45 acres = 9 acres

Total qualifying area considered for Density limits = 19 acres

Number of dwelling units allowed = 1.9 rounded up to 2.

SECTION 6.51(B)4

Repeal and recreate Section 6.51(B) 4 to read as follows:

- 4. On a parcel which is zoned AD-10, the development density shall not exceed ten (10) acres for each dwelling unit with credit for the C-1 zoned lands in accordance with Section 6.51(B)2.

SECTION 6.54(4)A1

Repeal and recreate Section 6.54(4)A1 to read as follows:

- 1. Only 20% of the C-1 zoned areas may be calculated in the overall density. Where more than 50% of the site is zoned in the C-1 category, only that amount of acreage up to the 50% amount may be used in the above calculations for purposes of computing allowed density.

SECTION 6.54(4)B1

Repeal and recreate Section 6.54(4)B1 to read as follows:

- 1. Only 20% of the C-1 zoned areas may be calculated in the overall density. Where more than 50% of the site is zoned in the C-1 category, only that amount of acreage up to the 50% amount may be used in the above calculations for purposes of computing allowed density.

SECTION 6.75(2)(B)

Repeal and recreate Section 6.75(2)(B) to read as follows:

- (B) Lands which lie within a larger parcel or tract of land, the remainder of which is zoned either FLP Farmland Preservation District or FLC Farmland Conservancy District, shall have a minimum (gross) parcel size of thirty-five (35) acres.

SECTION 6.8

Create Section 6.8 to read as follows:

Section 6.8 EC ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT

All parameters and requirements of Section 6.7 EC Environmental Corridor District shall apply to lands mapped EC Environmental Corridor Overlay District. If an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped, the field determined boundaries shall immediately become subject to the applicable district regulations. Lands with an underlying zoning designation of FLP Farmland Preservation District shall comply with the more restrictive parameters of the FLP District but shall be allowed limited disturbance within EC areas if authorized in accordance with Section 6.19(C)(4). All references to the EC District or EC Environmental Corridor District within this Ordinance shall also apply to the EC Environmental Corridor Overlay District.

SECTION 7.01(A)

Repeal and recreate Section 7.01(A) to read as follows:

(A) Any use permitted in the HG High Groundwater District.

SECTION 7.01(C)

Repeal and recreate Section 7.01(C) to read as follows:

(C) General farming on not less than five (5) acres of land, including the keeping of poultry and livestock, except that the keeping of hogs, male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres. The Zoning Administrator, upon recommendation of the Town Plan Commission, may grant a waiver for the cultivation of lands on parcels smaller than five acres if a determination is made that said use will not negatively affect surrounding property owners.

SECTION 7b

Create Section 7b to read as follows:

SECTION 7b HG HIGH GROUNDWATER DISTRICT

A. Purpose and intent

This district is intended to apply to those lands that are mapped as having hydric soil conditions (depth to groundwater of one foot or less) according to the Soil Survey of Milwaukee and Waukesha Counties published by the USDA Soil Conservation Service. Many of these lands contain wetlands and floodplains and, accordingly, are mapped with a C-1 Conservancy Overlay District designation. Other lands with such soil conditions are presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and the presence of natural vegetation indicative of wet soils.

The intent of the district is to preserve and maintain agricultural or open space uses on lands suited for such purposes. These lands are generally poorly suited for urban or suburban development, while lands outside of wetlands are typically better suited for some type of agricultural use. In this district structures related to farm operations, including existing dwellings,

are deemed consistent with the purpose and intent of this section where the location of buildings associated with the permitted agricultural operation are found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. The intent for mapping purposes is that lands within this district shall have exhibited agricultural uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. Lands mapped in this district are typically in the Planned "Other Open Lands to be Preserved" or "Environmental Corridor" comprehensive development plan categories.

B. Use regulations: Permitted uses

1. Any uses and structures permitted in the C-1 Conservancy District and, if located in a wetland, the provisions of Section 5 must be met.
2. Ordinary farm uses, including dairying, livestock, poultry raising, and truck farming.
3. Accessory uses within buildings normally associated with permitted agricultural operations including existing single-family dwellings, shelters for housing animals, except that no structure shall be located upon lands not suited due to soil limitations.
4. Nurseries, commercial greenhouses, and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3.03(6) of this Ordinance.
5. Roadside stands as outlined in Section 6.14(B)(5) of this Ordinance.
6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.

C. Conditional uses

Conditional uses as provided in Section 3.08(7)(A), (AA), (D), (G), (K), (Q), (R), (W), (X), (Z).

D. Building location

1. Road Setback:
 - a. Residential: Fifty (50) feet minimum, unless otherwise excepted in this Ordinance.
 - b. Other: Fifty (50) feet minimum, unless otherwise excepted in this Ordinance.
2. Offset:
 - a. Residential: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.
 - b. Other: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

3. C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance. All accessory buildings must be seventy five (75) feet minimum.

E. Height regulations

1. Principal building: Thirty-five (35) feet maximum.
2. Accessory building: Twenty (20) feet maximum.
3. Refer to Section 3.10 of this Ordinance for additional height regulations.

F. Area regulations

1. Floor area, minimum required:
 - a. Minimum first floor - nine hundred (900) square feet.
 - b. Total - one thousand one hundred (1,100) square feet.
2. Maximum floor area ratio permitted: Ten (10) percent.
3. Minimum parcel size: Five (5) acres, except that for HG lands that lie within a larger parcel or tract of land, the remainder of which is zoned in any other district, said parcel shall comply with the minimum (gross) parcel size requirement of that non HG district.

G. Determination of boundaries

Where on-site evaluation of soil conditions by a certified soil scientist reveals that soils mapped by the USDA as being hydric are found to be mis-mapped, the lands zoned HG District shall immediately become subject to the district regulations of the zoning district that is mapped on the balance of the property. If no other zoning district has previously been established on another part of the parcel, the lands shall be zoned as used administratively by the Waukesha County Zoning Administrator. If any such lands are part of an environmental corridor, wetland or floodplain, the respective EC Environmental Corridor District Overlay or C-1 Conservancy Overlay shall continue to apply to said lands.

SECTION 8b.01(1)

Repeal and recreate Section 8b.01(1) to read as follows:

- (1) Purpose and Intent: The purpose of this zoning district is to allow the development of land at densities not greater than one (1) unit for each five (5) acres on all non-prime agricultural areas, in order to encourage the preservation of Prime Agricultural tillable land, (U.S.D.A. Class I and II soils) to discourage residential development on environmentally sensitive areas, provide some marketability for such lands, and to encourage a more economical use of land which is suited to residential development by permitting more intensive use of such lands without changing the overall rural character of the Town and the population density of the Town as set forth in the adopted Land Use Plan. Further, only 20% of the lands in the C-1 Conservancy District may be used when calculating the allowable living units.

This district encourages the transfer of residential development rights from one area of a parcel to another, and from one tract of land to another, thereby increasing the density of development in exchange for establishing the preservation of other lands as "agricultural preserved lands."

SECTION 8b.01(2)(B)

Repeal and recreate Section 8b.01(2)(B) to read as follows:

- (B) The transfer of development rights may only take place between RRD-5, the AD-10, HG High Groundwater and C-1 Conservancy Zoning Districts except that only a maximum of 20% of the transferring land zoned C-1 Conservancy/Wetland may be counted towards the overall density to be provided for the receiving land. Where more than 50% of the site is zoned in the C-1 category, only that amount of acreage up to the 50% amount may be used in the above calculations for density purposes.

SECTION 8b.01(2)(G)

Repeal and recreate Section 8b.01(2)(G) to read as follows:

- (G) No building intended in whole or part for residential use shall be erected or relocated unless the lot on which it is located meets the required density factor or has allocated to it through the transfer program, sufficient additional preserved lands to meet the required density factor for the district in which it is located. Where "transferred lands" are to be established, no more than 20% of the total for computation may be in the C-1 Conservancy Zoning District and in accordance with Section 6.51(B) 2 of this Ordinance. Where the total area (or the pro-rated factor) involved includes more than one zoning district, the overall density factor shall apply. In any such case involving the establishment of "preserved lands" approval by the plan commission and the zoning agency shall be required, pursuant to the criteria and development goals set forth herein.

SECTION 8b.04(4)(B)1

Repeal and recreate Section 8b.04(4)(B)1 to read as follows:

1. They must be developed at no more than a five (5) acre density, taking into account only 20% of any C-1 Conservancy zoned lands where more than 50% of the site is zoned C-1, only the amount of acreage up to the 50% amount may be used in the calculation of allowable density.

**2015 FARMLAND PRESERVATION AMENDMENTS TO THE
WAUKESHA COUNTY SHORELAND AND FLOODLAND PROTECTION
ORDINANCE**

SECTION 2(b)

Create definitions to read as follows:

- Agricultural Accessory Use: Any of the following land uses on a farm:
 - A. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
 - B. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
 - C. A farm residence that existed on May 31, 2015.
 - D. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in paragraph (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 - E. Any other use that the Department of Agriculture, Trade and Consumer Protection ("DATCP"), by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

- Agricultural or Farm Use: Any of the following uses:
 - A. Any of the following activities:
 1. Crop or forage production.
 2. Keeping livestock, horses and poultry.
 3. Beekeeping.
 4. Nursery, sod, or Christmas tree production.
 5. Floriculture.
 6. Aquaculture.
 7. Fur farming.
 8. Forest management.
 9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

- B. Any other use that DATCP, by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.
- Agriculture-Related Use: Any of the following uses:
 - A. An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
 - B. Any other use that DATCP, by rule, identifies as an agriculture-related use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.
- Contiguous: When referred to in this ordinance in the context of farmland preservation provisions, contiguous lands or parcels shall mean adjacent to, sharing a common boundary and including lands that are separated by a road, stream or section line.
- Development Right: When used in the context of the Farmland Preservation (“FLP”) or Farmland Conservancy (“FLC”) Districts, the term, Development Right, shall be synonymous with the number of dwelling units and new parcels of less than 35 acres that a farm tracking unit is entitled to create.
- Farm: All contiguous land under common ownership that is primarily devoted to agricultural use.
- Farm Acreage: The size of a farm in acres.
- Farm Consolidation: A division of land that includes a farm house or houses and may include existing associated agricultural buildings that splits a limited amount of land from a larger pre-existing farm.
- Farm Residence: Any of the following structures that is located on a farm:
 - A. A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
 1. An owner or operator of the farm.
 2. A parent or child of an owner or operator of the farm.
 3. An individual who earns more than 50 percent of his or her gross income from the farm.
 4. A migrant labor camp that is certified under s. 103.92.
- Farm Tracking Unit: One or more contiguous parcels that were part of a single farm or in the same ownership on May 31, 2015 that are designated on the Comprehensive Development Plan for Waukesha County as a Farmland Preservation Area.
- Farmland Preservation Area: An area that is planned primarily for agricultural use or agriculture-related use, or both, and that is one of the following:

- A. Identified as an agricultural preservation area in a farmland preservation plan described in s. 91.12(1), Wis. Stats.
- B. Identified under s. 91.10(1)(d), Wis. Stats. in a farmland preservation plan described in s. 91.12(2), Wis. Stats.
- Farmland Preservation Plan: A plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 stats.
- Nonfarm residence: A single-family or multi-family residence other than a Farm Residence.
- Parent Parcel: The term parent parcel, when used in the Farmland Preservation District or Farmland Conservancy District, shall mean a parcel, as it existed, on January 1, 1997.
- Permitted Use: A use that is allowed without a conditional use permit, special exception, or other special zoning permission but that may require a zoning permit or other approval as specified in this ordinance.

SECTION 2(b)

Repeal and recreate Agricultural or Farm Use definition as follows:

- Agricultural or Farm Use: Any of the following uses:
 - A. Any of the following activities:
 1. Crop or forage production.
 2. Keeping livestock, horses and poultry.
 3. Beekeeping.
 4. Nursery, sod, or Christmas tree production.
 5. Floriculture.
 6. Aquaculture.
 7. Fur farming.
 8. Forest management.
 9. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
 - B. Any other use that DATCP, by rule, identifies as an agricultural use and that is determined by the plan commission and zoning administrator to be compatible with the purpose and intent of the Farmland Preservation Zoning District.

SECTION 2(b)

Repeal Agricultural or Farm Operation definition as follows:

- Agricultural or Farm Operation:
One or more parcels of land owned, leased or rented, and managed and put to an agricultural or farm use.

(Created by Enrolled Ordinance I65-69, effective 12-23-2010.)

SECTION 2(b)

Repeal and recreate environmentally significant areas definition as follows:

- Environmentally Significant Areas: Environmentally Significant Areas are lands which are zoned as C-1 Conservancy District or EC Environmental Corridor District, are designated as Primary Environmental Corridor, Secondary Environmental Corridor, or Isolated Natural Resource area on the Waukesha County Comprehensive Development Plan.

SECTION 2(b)

Repeal and recreate kennel, hobby definition as follows:

- Kennel, hobby: A private, non-commercial establishment, structure, premises or pursuit accessory to the principal use of the property where three (3) or more dogs of six (6) or more months of age are kept for such private purposes as pets, field trials, shows or hobby. The occasional raising of not more than two (2) litters of dogs per year on a premises and the sale or disposal of said dogs within six (6) months of their birth shall also be considered a private hobby kennel.

SECTION 2(b)

Repeal and recreate livestock definition as follows:

- Livestock: Animals which are typically kept for breeding, production of agricultural products, sale or pleasure, including, but not limited to cattle, bovine, emus, llamas, alpaca, pigs, swine, hogs, sows, horses and other equine animals, sheep, goats, farm raised deer, camelids, ratites, farm-raised fish, farm-raised game birds and bison. For purposes of the FLC and FLP Districts, Livestock is defined as bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.

(Created by Enrolled Ordinance 159-70, effective 12-12-2004.)

SECTION 3(a)

Repeal and recreate Section 3(a) to read as follows:

(a) Jurisdiction and Mapping

The jurisdiction of this Ordinance shall apply to all structures, land, and water including those lands within the unincorporated Floodland and Shoreland areas, as defined herein, and located within the boundaries of Waukesha County, Wisconsin.

Originally, the Waukesha County Board of Supervisors on June 23, 1970 adopted one (1) inch equals one thousand (1,000) feet individual township Shoreland and Floodland zoning maps as part of this Ordinance. These areas of jurisdiction were redrawn and indicated on four (4) square mile aerial photographs at a scale of one (1) inch equals four hundred (400) feet and were made a part of this Ordinance. As a result of ongoing large scale topographic mapping and survey projects conducted under Section 87.31, Wisconsin Statutes and pursuant to county needs, additional topography maps at a scale of one (1) inch equals two hundred (200) feet with contour intervals of two (2) feet were also made a part of this Ordinance where said maps contained greater detail and information relative to information pertinent to said Shoreland and Floodland areas. Together with the one (1) inch equals four hundred (400) feet aerial photographs referenced above, these maps amended and replaced the original one (1) inch equals one thousand (1,000) feet township zoning maps previously adopted and referred to above for the specific land

areas covered within the area for which the Shoreland and Floodland jurisdiction has been shown thereon.

The county has converted the previously referenced maps into a digital format using the Geographic Information System (GIS) to allow for greater access to the mapping information. Paper copies are on record in the Waukesha County Department of Parks and Land Use-Planning and Zoning Division office. The maps are converted by town area and the Shoreland and Floodland areas are mapped using up-to-date Floodplain, navigability, elevation, Wetland, and parcel information, as well as historical information contained on the aforementioned one (1) inch equals four hundred (400) feet aerial photographs. The scale of the map differs by town, but in general are one (1) inch equals one thousand (1000) feet. These new maps supersede the aforementioned aerial and contour maps as they are completed and approved by the Plan Commission and the County Board.

The boundaries of the Floodplains and Wetlands shall be those areas designated as such on the above-referenced maps and as described in Section 6(b) of this Ordinance. For Floodplain Management purposes, the regulated Floodplain boundary shall be that as set forth in the FEMA Flood Insurance Rate Maps or as depicted as the C-1 or EFD, districts on the official zoning map, whichever boundary designates a greater Floodplain area. Where a stream is subsequently identified or determined to be navigable, and was not previously subject to Shoreland and Floodland Ordinance jurisdiction, said navigable stream and the lands bordering it, which meet the conservancy zoning district standards for mapping, shall immediately be subject to the jurisdiction of this Ordinance, including those requirements such as conservancy setback requirements and other water quality related issues. Subsequently, upon processing and approval of an amendment to include the entire area along said stream or water course within the Shoreland jurisdiction and the holding of requisite hearings pursuant to the provisions of this Ordinance, all Shoreland areas and provisions attendant thereto shall fall under the jurisdiction of this Ordinance.

SECTION 3(d)5.A.i.d.1

Repeal and recreate Section 3(d)5.A.i.d.1 to read as follows:

1. The proposed use is permitted in Section 7, C-1 Conservancy District or Section 8 Existing Floodplain Development Overlay District.

SECTION 3(d)5.B.

Repeal and recreate Section 3(d)5.B. to read as follows:

- B. *Within Shorelands*--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 and soil and water conservation structures are Conditional Uses and must be approved in accordance with Section 4(g)14 of this Ordinance except as may otherwise be permitted in Sections 3(d)5.C and D or 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 and, where applicable, a federal permit from the U.S. Army Corps of Engineers. All such uses and activities shall be consistent with the uses permitted in the C-1 Conservancy District and EFD Existing Floodplain Development Overlay District, if they occur within said district. If the proposed activity requires a rezoning of the lands, Section 39 of this Ordinance must be complied with.

Any alteration or relocation of a watercourse in a mapped Floodplain shall not be approved until the Zoning Administrator has notified in writing all adjacent municipalities, the WDNR and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The standards of Section 3(d)5.A.ii. must be met and the Flood carrying capacity of any altered or relocated watercourse shall be maintained consistent with preexisting conditions prior to any alterations taking place. As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation and pursuant to Section 39, the community or applicant shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the WDNR through the LOMC process.

SECTION 3(k)3.C.

Repeal and recreate Section 3(k)3.C. to read as follows:

- C. A conditional use permit pursuant to Section 4(g)10 may be granted to permit the parking of commercial or industrial type vehicles in any zoning district except C-1 Conservancy or EC Environmental Corridor. In the B-3, Q-1, M-1, M-2 and P-I districts where such vehicles are accessory to an otherwise permitted business, industrial, public and institutional, 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, or the approved Conditional Use or Site Plan and Plan of Operation.

SECTION 3(q)1

Repeal and recreate Section 3(q)1 to read as follows:

(q) Swimming pool (as defined in Section 2(b))

1. Use permitted: Above and below ground swimming pools are permitted in any district other than the C-1 district, subject to the following:
 - A. The pool must be intended to be used solely by the occupants of the principal use of the property on which the pool is intended to be located and their guests.
 - B. Any pool, together with its surrounding walks, patios, diving platforms, bathhouses, 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 district.
 - C. Walls or fences of at least four (4) feet in height shall be provided around the immediate area of the pool to act as a deterrent for unsupervised children gaining access to the pool. Where the pool is an above ground pool, no additional fence or wall shall be required if the walls of the pool are at least four (4) feet above the grade of the land completely surrounding it and extending at least five (5) feet from the walls of the pool. If an access ladder is provided, it shall be so designed so that it can be locked, tipped or otherwise placed to prohibit access to the pool by children.

SECTION 3(r)6

Repeal and recreate Section 3(r)6 to read as follows:

6. Floor area: The floor area of a guesthouse may be any size. In order to sell a guesthouse as a separate unit, its floor area must conform to the district regulations in which it is located.

SECTION 4(g)1

Repeal and recreate Section 4(g)1 to read as follows:

1. Airports, Landing Fields and Take Off Strips: In all Agricultural, AD-10, RRD-5 and non-wetland C-1 Conservancy Districts, the HG High Groundwater District, except that in the FLP Farmland Preservation District and the FLC Farmland Conservancy District, the aviation use must be agriculturally or municipally related and shall comply with all provisions of Section 11. Such uses shall be subject to the approval of:
 - A. Building and site plans and a plan of operation for the conduct of the use shall be approved by the Plan Commission and County Zoning Agency.
 - B. Review and approval by the Federal Aviation Administration and/or the State of Wisconsin Bureau of Aeronautics or a letter waiving their approval or indicating such approval is unnecessary.

SECTION 4(g)2

Repeal and recreate Section 4(g)2 to read as follows:

2. Animal Hospitals, Veterinarian Clinics, Commercial Kennels: In any district, except C-1, and EC Environmental Corridor Districts. However, animal hospitals and veterinarian clinics shall be permitted uses by right in the A-B Agricultural Business Districts and business and industrial districts as long as such facilities do not include the operation of a commercial kennel. In the FLP and FLC Districts, such uses shall comply with all requirements of Section 11. No structures are allowed in the FLC or HG District. The following requirements shall be met:
 - A. The location, building and site plans, and a plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.
 - B. Animal hospitals and clinics not involved in the operation of a commercial kennel may be permitted on lots of not less than one (1) acre and shall be in conformance with building location, height regulations and area regulations of the district in which such facilities are located. A commercial kennel operation shall not be permitted on parcels of less than three (3) acres and three hundred (300) feet of minimum average width.
 - C. No building other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in an Agricultural or Residential Zoning District. Where the buildings are to be used to board or house dogs in a commercial kennel, including outdoor kennel runs, such structures and fenced runs shall not be closer than one hundred (100) feet to an adjoining lot line.

SECTION 4(g)3

Repeal and recreate Section 4(g)3 to read as follows:

3. Antique Shops, Gift Shops, Arts and Craft Studios and Similar Uses: Such uses are permitted uses by right in Business Districts and may be allowed as conditional uses in all other districts

except FLP Farmland Preservation, FLC Farmland Conservancy, HG High Groundwater District and C-1 Conservancy Districts subject to the following:

- A. The location, site, and building plans and plan of operation have been approved by the Plan Commission and County Zoning Agency.
- B. The Plan Commission and County Zoning Agency shall make a finding that such use is compatible with surrounding and nearby residential land uses which may be affected by the proposed use.

SECTION 4(g)4

Repeal and recreate Section 4(g)4 to read as follows:

- 4. Automobile, Gasoline, and Service Station and Convenience Stores associated with gasoline sales: In B-2, and B-3 Business Districts and any Industrial District, subject to the following:
 - A. No gasoline pumps and accessory equipment shall be closer than fifteen (15) feet to the base setback line and fifty (50) feet offset to the side and rear yards. Underground or aboveground storage tanks shall conform to state standards.
 - B. No lighting installation shall be permitted which creates a hazard to traffic or a nuisance to surrounding property and all lights shall be shielded, baffled or shaded to avoid such hazard or nuisance.

SECTION 4(g)5

Repeal and recreate Section 4(g)5 to read as follows:

- 5. Bed and Breakfast Facility: In all districts, except the HG High Groundwater District, C-1 Conservancy, FLP Farmland Preservation and FLC Farmland Conservancy Districts. The intent is to provide travelers/guests with temporary accommodations and breakfast, for a fee, on a daily or weekly room rental basis, as an accessory use in any existing structure designed for and occupied as a single-family residence in any district permitting single-family residences subject to the following:
 - A. The location, building and site plan and a plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.
 - B. Minimal outward modification of the structure or grounds may be made only if such changes are compatible with the character of the area or neighborhood and the intent of the zoning district in which it is located. For building with significant architectural or historical value, the architectural integrity and arrangement of existing interior spaces must be maintained and the number of guest rooms shall not be increased except as may be required to meet health, safety, and sanitation requirements.
 - C. Off-street parking shall be provided at the rate of one (1) parking space for each room rented and two (2) spaces for the owner/occupant. The front yard shall not be for off-street parking for temporary guests unless the parking area is screened from view with natural plant material, and found to be compatible with the neighborhood.
 - D. The number of rooms shall be limited to five (5) sleep-in rooms or less, excluding those used by the occupants of the facility, and no room may contain more than two (2) beds.

There must be at least five hundred (500) square feet of gross interior floor area for each sleeping room. These facilities providing service to a greater number of guests are not considered "license exempt" under state law and must comply with state hotel/motel restaurant licensing procedures administered by the County or State Health Department. The issuance of such licenses shall not be considered as conferring non-conforming commercial status to the use which would either allow alteration of the facility or otherwise compel rezoning of the property for commercial use beyond the scope of this Section.

- E. One (1) on-premise sign may be allowed provided that such sign is compatible with the residential use of the site and its surrounding areas and is not more than fifteen (15) square feet in size with letter sizes not less than five (5) inches in height.
- F. All necessary state and county permits, certifications, or requirements shall be obtained as a condition of approval of a bed and breakfast service.
- G. Room rentals to families or individuals shall not exceed fourteen (14) consecutive days during any thirty day (30) period.
- H. The bed and breakfast facility must be accessory to and contained within the single-family dwelling occupied by the owner (e.g., not a manager) of said premises.
- I. The only meal to be provided to travelers/guests shall be breakfast and it shall only be served to guests taking lodging in the facility.
- J. The Waukesha County Department of Parks and Land Use, Environmental Health Division shall examine both the water system and the sewage disposal system, and shall conduct a general health and safety inspection of the proposed facility. The Department of Parks and Land Use may impose any conditions required to ensure that all necessary health and safety standards have been met. The applicant shall not: initiate any construction activity and other improvements related to the bed and breakfast facility; or begin operation of the facility until a determination, in writing, by the Department of Parks and Land Use that the necessary inspections have been completed and any deficiencies have been corrected. The proprietor shall have a water quality evaluation conducted by a recognized water testing laboratory on an annual basis following the certification of adequacy by the Department of Parks and Land Use. The results of that test shall be submitted to the Department of Parks and Land Use with a copy to the Zoning Administrator. All requirements must be incorporated into the terms of the conditional use permit.

SECTION 4(g)7

Repeal and recreate Section 4(g)7 to read as follows:

- 7. Cemeteries and Mausoleums for the Burial of Human Remains Only: In any district, except in C-1, FLC or EC Environmental Corridor Districts subject to the approval of the Town Board following recommendations of the Plan Commission. In the FLP district, cemeteries and mausoleums that are governmental, institutional, religious, or nonprofit are permissible if they comply with the terms of Section 11.

SECTION 4(g)8

Repeal and recreate Section 4(g)8 to read as follows:

8. Churches, Synagogues and Other Buildings for Religious Assembly: In any district, except in C-1, HG, FLC and EC Environmental Corridor districts subject to the following requirements:
 - A. A floor area ratio of no more than 50% be allowed.
 - B. Off-street parking be provided for one (1) automobile for each four (4) seats provided in the main assembly of the building.
 - C. Such use shall conform to the setback, height, and double the offset requirements of the district in which it is located.
 - D. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and offsets shall be increased two (2) feet for every additional foot of height in excess of the permitted maximum in that district. The aforesaid height regulation shall not apply to the spire or belfry of a church except where airport safety zone regulations specifically limit the maximum height.

SECTION 4(g)9

Repeal and recreate Section 4(g)9 to read as follows

9. Commercial Fish or Bait Ponds or Hatcheries: Such uses are considered Permitted Uses by right within the FLP and FLC Districts. In other districts such uses are permitted conditionally, subject to the following:
 - A. No such use shall be permitted on a lot less than five (5) acres in area and no such use shall be permitted in a floodplain and/or wetland unless the applicable requirements of Section 7 of this Ordinance are met and all State and Federal permits are obtained.
 - B. No building other than one, used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.

SECTION 4(g)10

Repeal and recreate Section 4(g)10 to read as follows:

10. Commercial Truck Parking: Such uses are uses permitted by right in the B-3, M-1, M-2, P-I, and Quarrying districts. In all Residential, Agricultural, FLP, FLC, HG, B-1 and B-2 Business Districts, except the EC Environmental Corridor District and the C-1 Conservancy District, such uses are permitted subject to the following:
 - A. The parking and the storage of commercial type vehicles, dump trucks, school buses, construction vehicles, semi trailers and tractors may be allowed as long as the vehicle is owned or leased and operated by the owner or occupant of the premises. No such use shall be allowed on any parcel, except as may front directly upon and have access to an arterial or collector street as defined herein.
 - B. No more than one (1) such vehicle shall be allowed to be parked or stored on the occupant's property and no more than two (2) additional construction vehicles (backhoes, front end loaders, grading equipment, etc.) shall be allowed. Such vehicles shall be fully

operative and in active use. Where considered appropriate, two (2) semi-trailers may be allowed, but in no case may there be more than one (1) semi-tractor or "cab" unit.

- C. No such vehicle shall be allowed to be parked or stored closer than fifty (50) feet to any adjacent lot line, and not closer than one hundred (100) feet from the base setback line. In the case of refrigerator trucks, the refrigeration unit may not be operated in the open if said truck is parked closer than five hundred (500) feet to the nearest neighboring residential property line.
- D. In determining whether or not the proposed conditional use permit should be issued, a determination of compatibility with adjacent land uses shall be made by the Town Plan Commission and County Zoning Agency in issuing this conditional use permit. If it is determined that it would in any way be incompatible and represent an adverse effect or nuisance to adjacent land uses, the conditional use permit shall not be issued.
- E. The conditional use permit shall be reviewed every two (2) years by the Town Plan Commission in order to determine conformance with the terms of the permit and if it is determined that the use is no longer compatible with adjacent land uses as they develop in the vicinity, the conditional use permit may be revoked in accordance with the revocation procedures contained in this Ordinance.

SECTION 4(g)12

Repeal and recreate Section 4(g)12 to read as follows:

- 12. Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations, Poultry and/or Egg Production: In A-1, A-B, A-O, A-5, AD-10, FLP FLC, RRD-5 and A-T districts. Commercial or custom grain drying, poultry and/or egg production are considered permitted uses by right in the A-B Agricultural Business district and conditional uses in A-1, A-O, A-5, AD-10, FLP FLC, RRD-5 and A-T districts. The following minimum requirements shall be complied with in the granting of conditional uses under this Section:
 - A. The location, building and site plans, and plan of operation shall be subject to the review and approval of the town plan commission and county zoning agency.
 - B. No building other than one used only for residential purposes shall be located closer than one hundred (100) feet to the lot line of an adjoining lot in a residential district. In all other cases a minimum offset of fifty (50) feet shall be maintained.
 - C. The animal waste shall be handled in a safe and healthful manner and the method shall be approved by the town plan commission and the county zoning agency.
 - D. No such consideration or approval for this use will be granted on a lot of less than five (5) acres in size.

SECTION 4(g)13

Repeal and recreate Section 4(g)13 to read as follows:

- 13. In-Law Unit: In any Residential, Agricultural, B-1 or B-2 zoning districts, except the FLC District, subject to the following. Such uses in the FLP District shall comply with all density provisions of Section 11 in addition to the below requirements:

- A. The location, building plan, site plan and plan of operation shall be submitted to and approved by the Plan Commission and the County Zoning Agency.
- B. The Waukesha County Department of Parks and Land Use, Environmental Health Division shall certify that the septic system will accommodate the proposed use and in accordance with SPS 383, county and State Sanitary Codes.
- C. Maximum living area of the in-law unit shall not exceed eight hundred (800) square feet and shall contain no more than two (2) bedrooms. There shall be an additional parking space for the in-law unit. There shall be no more than one (1) in-law unit per single-family lot.
- D. Architecture of the residence shall be compatible with the adjacent residential neighborhood and shall appear to be a single-family residence. All other appropriate zoning district requirements for the principal living unit shall be complied with. A common entrance to the residence and in-law unit should be designed into the structure so that a separate front entrance off of the common entrance is available and the structure does not appear to be a duplex.
- E. The Plan Commission and the County Zoning Administrator shall determine if it is appropriate to have an interior door between the in-law unit and the principal residence.
- F. A Deed Restriction shall be filed in the Waukesha County Register of Deeds Office and a copy of the recorded document presented to the Building Inspector prior to issuance of the Building Permit. This Deed Restriction shall state that the in-law unit is to be occupied by persons related by blood or marriage to the family occupying the principal unit and that the Conditional Use is not transferable without formal approval of the Plan Commission and the County Zoning Agency without necessity of a public hearing and that the unit will be used as intended.

SECTION 4(g)16

Repeal and recreate Section 4(g)16 to read as follows:

- 16. Limited Family Business: The purpose and intent of this Section is to provide a listing of procedures and standards of operation for limited family businesses that may operate in an attached garage or detached accessory building under a conditional use permit in residential or agricultural districts except the EC and FLC Districts. Within the FLP District, such uses must comply with the terms of Section 11.
 - A. A conditional use permit for a limited family business is designed to accommodate small family businesses without the necessity for relocation or rezoning, while at the same time protecting the interest of the adjacent property owner and any future development of the area. Any expansion of the limited family business will be subject to an amendment to the conditional use permit and, if said amendment is denied, the conditional use permit would either terminate or the expansion could not take place.
 - B. All employees, except one full-time equivalent, shall be members of the family residing on the premises.

- C. The plan commission and zoning agency shall determine the percentage of the property that may be devoted to the limited family business and the more restrictive determination shall apply.
- D. The limited family business is restricted to a service oriented business as defined in this Ordinance and is prohibited from manufacturing or assembling products. The sale of products on the premises that are not produced by the limited family business is prohibited. The sale of products available for sale as accessories to the business may be permitted or limited by specific conditions in the conditional use permit (i.e. hair care products such as shampoo and conditioners normally associated with a business that cuts or styles hair). Examples of service oriented businesses include, but are not limited to, the following: non-health related office or studio for professions such as accountant, architect, artist, attorney, barber, beautician, crafter, dance teacher, housekeeping, indoor storage, insurance agent, interior decorator, massage therapist, music teacher, photographer, realtor, salesman, shoe repair, small engine repair, tailor/seamstress, travel agent, woodworker (not a cabinet maker), an office for a business that is otherwise located completely off site with the exception of vehicles transported to and from a job site on a daily basis, etc. In the event a question arises, the zoning administrator shall make a determination as to whether or not a business is considered a limited family business, service oriented business, or home occupation business.
- E. The conditional use permit shall restrict the number and types of machinery and equipment the limited family business operator may be allowed to bring onto the premises and whether the machinery and equipment must be stored inside a building.
- F. The structures used in the limited family business shall be considered to be residential accessory buildings and shall meet all the requirements for such buildings. The design and size of the structures are subject to conditions in the conditional use permit.
- G. The conditional use permit shall automatically expire and terminate on the sale of the property or its transfer to a non-occupant of the property.
- H. The limited family business shall not operate on a parcel having less than the minimum parcel size for the district in which it is located. For certain uses which are determined by the town and county to have a potential adverse affect on adjacent residential zoned properties, additional requirements regarding location and site standards (i.e. screening) may be required as conditions of the use.

SECTION 4(g)18

Repeal and recreate Section 4(g)18 to read as follows:

- 18. Mobile Home Parks and Trailer Camps: In any district other than the agricultural districts, Conservancy, Farmland Preservation District, Farmland Conservancy District, suburban estate or residential districts subject to the following:
 - A. The provisions of all other trailer camp or mobile home ordinances shall be met.
 - B. No such use shall be allowed unless municipal sewerage facilities are used or unless the minimum lot size per family is one-half acre having a minimum width of not less than one hundred twenty (120) feet, offsets at twenty (20) feet and a setback of fifty (50) feet.

- C. Owners or operators of all mobile home parks and camps shall provide adequate surface drainage to minimize flood damage, prepare and secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- D. In existing mobile home parks, all new mobile homes on existing pads, and substantially improved homes shall have the lowest floor elevation to the flood protection elevation, be anchored so they do not float, collapse or move laterally during a flood.
- E. New mobile home parks and camps are not allowed in the floodplain. Replacement, modifications, or additions to modular or manufactured homes shall meet the residential development standards provided in Section 8-Existing Floodplain Development Overlay District.

SECTION 4(g)22

Repeal and recreate Section 4(g)22 to read as follows:

22. Planned Unit Development: Due to increased urbanization and the associated greater demands for open space and the need to create a more desired and creative living environment than would result through the strict application of the standard zoning requirements, it is herein provided that there be flexibility in the regulations governing the development of land. This provision is intended to encourage planned unit development in directions that will recognize both the changes in design and technology in the building industry and the new demands in the housing market. It is intended that these provisions create imaginative and interesting communities with substantial open area owned in common or dedicated to the public and for the enjoyment of the residents, and will encourage a more efficient and desirable use of the land and open space areas thereby resulting in more variety of the physical development of the County.

An overall development plan showing how the above objectives are to be achieved must be submitted to the Plan Commission and the County Zoning Agency for review and approval. This use is permitted in any district except FLP Farmland Preservation, FLC Farmland Conservancy, A-B Agricultural Business, , AD-10 Agricultural Density, and the RRD-5 Rural Residential Density, except that no portion of any building lots or structures shall be allowed in the C-1 Conservancy or HG Districts, subject to the following:

- A. Lot size, lot width, height, offset, setback, open space, floor area ratio, building size and building location requirements may be modified according to the following conditions:
 - i. That all sanitary provisions are approved by the Waukesha County Department of Parks and Land Use, Environmental Health Division.
 - ii. That the proposed development is in conformity with the Town comprehensive plan, is not contrary to the general welfare or economic balance of the community, and that the benefits and amenities of the resultant development justifies the variation from the normal requirements of the district.
 - iii. That all other requirements of planned unit developments are met as set forth in Section 4(g)22.

B. *Residential Planned Unit Development:*

- i. The following table may be utilized to compute the maximum dwelling unit density requirements of the P.U.D., except that areas which are Upland or Secondary Environmental Corridors are also subject to (ii) below.

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

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

** The density may be increased by 30% in the R-3 District to 10,500 square feet per dwelling unit if municipal sewer or water service is provided, and by 40% to 9,000 square feet per dwelling unit if both municipal sewer and water service are provided.

- ii. If all of the Upland, Primary and Secondary Environmental Corridor or Environmental Corridor zoned lands are preserved in their entirety within the public open space or common open space and preserved in its natural state, the density of one unit per five (5) acres may be added to the maximum number of dwelling units derived from utilizing the table above.
- iii. Lands currently zoned C-1 may not be used in formulating the density of the project. When lands border a lake or other public body of water, pyramiding as defined herein, may be allowed if the minimum water frontage at the high water mark is one hundred (100) feet for the first dwelling unit and an additional twenty-five (25) feet for each additional dwelling unit thereafter. No more dwelling units may have access to the water body than would result from the application of this provision irrespective of the overall size of the development parcel.
- iv. Public open space or common open space shall be of a size and shape to provide an integrated system of open spaces to the greatest extent possible and to provide protection of environmentally significant lands; they shall not consist of long, narrow bands or corridors, but shall be larger blocks or wide corridors of land, usually not less than one (1) acre in area. Corridors linking large blocks of public open space or common open space shall be not less than fifty (50) feet in width to provide adequate buffers from adjacent residential lots. The size, shape and location of said public open space or common open space shall be subject to review and approval of the Plan Commission and Zoning Administrator in order to qualify the project for consideration as a P.U.D. Public open space or common open space shall be a minimum of forty (40) percent of the entire development, while no more than twenty (20) percent of the entire acreage of the

development included in the required forty (40) percent open space can be Conservancy zoned land. In any development, no more than five (5) percent of the public open space may be used for public buildings, such as schools, fire stations, municipal buildings, etc.

- v. In public open space or common open space containing environmentally significant areas, a maximum of two (2) percent of the environmentally significant areas may be used for limited construction of recreational related structures and recreational trails.
 - vi. Public open space or common open space shall contain at least ninety (90) percent green space. Such public open space or common open space shall not be part of individual residential building lots and all but five (5) percent of the open space shall be free of structures and impervious surface. The Zoning Administrator and the Plan Commission may increase as a special exception the maximum requirement in conformance with the overall intent of these provisions while also protecting the public's interest.
 - vii. Adequate guarantee shall be provided for permanent retention of the open space resulting from these regulations, either by private reservation for use of the residents within the development or others as may be specifically provided for, i.e.: farmers use of open space, dedication to a public entity or development of a private recreational facility open to the general public in perpetuity for a fee, subject to Plan Commission and Zoning Agency approval. There shall not be any clear cutting or clearing of vegetation other than dead, diseased or dying vegetation or removal of invasive species on any lands being so preserved in public open space or common open space which are considered Primary or Secondary Environmental Corridor or Isolated Natural Areas, as depicted on the Waukesha County Development Plan, except as provided in (v) for limited trail or recreational related development.
 - viii. Perpetual care and maintenance of public open space or common open space shall be provided for by an agreement recorded with the Waukesha County Register of Deeds. Said agreement shall include an operation plan, which shall preserve the natural qualities of the environmentally significant lands. The agreement shall be submitted to and approved by the Plan Commission and the Zoning Administrator and may be subject to review by the Waukesha County Naturalist if required by the Plan Commission and/or the Zoning Administrator and this condition is not satisfied unless all such appropriate approvals are granted.
 - ix. Ownership and tax liability of the open space areas shall be established in a manner acceptable to the Plan Commission and Zoning Administrator and made part of the conditions of approval.
- C. *Commercial P.U.D.*: The use of a Commercial P.U.D. may be authorized only where the underlying zoning is mapped in one or more of the business districts on the parcel or a portion thereof. If only a portion is zoned for business, the commercial P.U.D. may only be used for the same percentage of the site that would result from the normal application of the Business district requirements. The location of the proposed business uses can however, be flexed on the site so long as no more area is devoted to such use than is

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

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

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

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

E. *Urban Form P.U.D.:* An Urban Form PUD shall allow a mixture of commercial, office, residential, institutional or park and open space uses and may also allow for single use projects that contain certain specified urban design elements. Such projects are envisioned to accommodate compact, higher intensity development or redevelopment in settings where urban services are available and urban development is appropriate and will contribute to the vitality of the community. The Urban Form PUD shall require a heightened level of site design and individual buildings shall be arranged in a unified fashion so as to be complementary to each other and to be compatible with the surrounding neighborhood. Urban/high density residential development is encouraged (less than 6,000 square feet per dwelling unit) and can be authorized within this Conditional Use category.

This PUD option provides opportunity for design flexibility and sets forth basic requirements for urban form development projects in order to accommodate unique, integrated development projects. The availability of this design option recognizes that the community and County realize economic, aesthetic and quality of life benefits from projects with interesting design and higher intensity mixed uses or projects with urban form. Development projects or new neighborhoods with vertical scale architecture, mixed uses, pedestrian facilities and public gathering spaces create more dynamic places that are attractive for people to live, work and play within. Required urban amenities will benefit both the developer and the community while also allowing for orderly and efficient land use. For a project to be eligible for consideration and approval as an Urban Form PUD, the following project design elements shall be provided:

- i. Urban Form PUDs will only be considered in existing central business district/downtown settings or in close proximity to major transportation facilities such as interstate highway interchanges, county trunk highways, major arterials or mass transit stops.
- ii. Eligible sites must be served by municipal sewer and municipal water.
- iii. Architecture, landscaping and building siting must be designed to create an attractive and cohesive environment that contributes positively to the existing setting. Landscape treatments shall be provided to enhance architectural features, improve appearance, screen parking areas and structures, provide shade and enhance the streetscape.
- iv. Urban scale architecture (minimum two story buildings or two story facades) is required. Maximum permissible building height and massing must be complimentary to the neighborhood and is subject to the approval of the County Zoning Agency.
- v. Building designs shall utilize a variety of aesthetically compatible exterior building materials and building styles and articulations shall be varied. Long, monotonous façades or roof designs shall not be permitted. HVAC units and other rooftop mechanicals/utilities are required to be screened from view.
- vi. Meaningful communal gathering and green spaces provided in accessible settings must be an integral part of any proposed development.
- vii. Pedestrian facilities must connect buildings and uses within the proposed development and must connect the development to the surrounding neighborhood in order to provide safe and convenient access for patrons, residents, and pedestrians. Bicycle accommodations should be considered in the project design.
- viii. Proposed development projects must be complimentary to the surrounding neighborhood.
- ix. Buildings shall be predominantly oriented to streets with minimal street setbacks or maximum build-to lines to be specified by the County Zoning Agency.
- x. Large surface parking lots shall be minimized with specific consideration given to avoidance of parking lots between buildings and the street edge. Structured,

underground or on-street parking must be provided to the greatest extent practicable. Surface parking lots should be located to the side and rear of buildings as much as possible. Parking areas should be landscaped to incorporate planting islands large enough so they may also serve as storm water areas or snow storage areas.

- xi. Retail and mixed retail/office buildings shall provide large store front windows that provide visibility and transparency at the pedestrian level.
- xii. Urban/High Density residential development is permissible with the form and massing of buildings to be authorized by the County Zoning Agency. Any County-imposed minimum residential dwelling unit size restrictions shall be in accordance with SEWRPC's Regional Housing Plan for Southeastern Wisconsin: 2035 (or as amended in the future) recommendations for unit size affordability (i.e. 800 square feet or less for a two bedroom unit). Specified maximum building height, setbacks, build-to lines, offsets, and on-site parking requirements are to be established by the County Zoning Agency, which will determine available housing densities.
- xiii. Internal streets must be designed to adequately serve the users of the proposed development and contain traffic calming measures (landscape bump outs, parallel or angle on-street parking, visually conspicuous crosswalks, narrow streets, etc.) while allowing for safe and efficient traffic circulation.
- xiv. Developers of mixed use projects or structures with more than one tenant shall submit a comprehensive description of a uniform signage system so that individual business or tenant signs will be harmonious and compatible with the overall design of the structures and site. Individual tenant signage must be predominantly wall mounted.
- xv. Streets and pedestrian facilities shall contain appropriate streetscape amenities (street trees, street furniture such as benches, planters, trash receptacles, information kiosks, bike racks, bus shelters, appropriate scale lighting and way finding signage) and the County Zoning Agency shall set forth the required streetscape elements with consideration given to similar Town imposed requirements, if applicable. Terraces to separate pedestrians from vehicles shall be provided, where feasible. ADA compliant access and facilities shall be provided throughout the development. Sidewalks that will traverse predominantly retail or restaurant use areas shall be wide to accommodate space for passing pedestrians and certain designated sidewalks within retail areas should be widened to allow for sidewalk café dining or outdoor retail display while still providing for pedestrian passage.

F. Example - Computing Maximum Dwelling Unit Density in a Planned Unit Development: A developer wishes to divide one hundred (100) acres of land into a planned unit development. Ten (10) of these acres are zoned C-1 Conservancy. The rest is zoned R-1 residential. The preliminary plan shows an additional ten (10) acres devoted to commercial uses. The following computations demonstrate the method of determining how many residential units may be allowed in the project.

Gross acreage.	100 acres
Less ten (10) acres zoned C-1	<u>- 10 acres</u>
	90 acres

Less ten (10) acres zoned for B-2 Business use.	<u>- 10 acres</u>
	80 acres

Total residential acreage in sq. ft. (80 acres x 43,560)	3,484,800 square feet
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Divide by square feet per dwelling unit requirement for R-1 Residential districts
(3,484,800 divided by 39,000) = 89 units

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

SECTION 4(g)23

Repeal and recreate Section 4(g)23 to read as follows:

23. Private Clubs and Resorts: Without limitation because of enumeration, this category includes resorts and private clubs such as outdoor/indoor recreational facilities as defined herein, driving ranges, tanning booths, campgrounds, golf courses, beaches, yacht clubs, boarding stables, riding arenas, game farms, etc. These uses are permitted in any district, except that buildings and structures (including, but not limited to, the temporary or permanent placement of camping units and all service facilities) are not permitted within the C-1, HG or FLC Districts. Such uses may only be allowed in the FLP or FLC Districts if incidental to and compatible with the continued long term agricultural use of the lands and in conformance with Section 11. Such uses shall be subject to the following;
- A. No such use shall be permitted on a lot less than three (3) acres in area except in a restricted business or less restrictive district.
 - B. No building, other than one used only for residence purposes shall be closer than fifty (50) feet to the lot line of an adjoining lot in a district permitting residential use.
 - C. Off-street parking shall be provided as required by the Plan Commission adequate to meet the particular needs of the proposed use.
 - D. No such permitted use shall include the operation of a commercial facility such as a bar, restaurant or arcade except as may be specifically authorized in the grant of permit.

SECTION 4(g)24

Repeal and recreate Section 4(g)24 to read as follows:

24. Public and semi-public buildings and uses: In any district except the C-1 Conservancy District. Such uses within the FLP and FLC Districts shall comply with all terms of Section 11. No

structures are permitted within the HG or FLC Districts. Such uses shall be subject to the following:

- A. Such uses shall conform to the setback, height, and double the offset requirements of the district in which they are located.
- B. The height limitation may be extended to a maximum of fifty (50) feet provided the minimum required setbacks and offsets shall be increased two (2) feet for every additional foot of height in excess of the permitted maximum of that district.

SECTION 4(g)25

Repeal and recreate Section 4(g)25 to read as follows:

25. Quarrying as defined in this Ordinance: In any district, except E-C Environmental Corridor, AD-10, RRD-5, A-2 Rural Home, A-3 Suburban Estate, A-4 Country Estate, R-1, R-2, R-3, P-I, B-1, B-2, B-3, B-4, BP, or M-1. Existing quarries may continue to operate in the C-1, HG, FLC and EFD Districts, subject to compliance with the development standards of 7(c)2. New quarries are prohibited in the C-1, HG, FLC and EFDDistricts. Quarries within the FLP or FLC Districts shall comply with all terms of Section 11. All quarries are subject to the following:

A. *Procedure for application:*

- i. Permit: No quarrying operation shall take place in any district until a conditional use permit has been received and approved by the Plan Commission, Town Board and the County Zoning Agency. Except in a quarrying or general industrial district such permit shall be for an initial period as is deemed appropriate to the specific situation but not exceed five (5) years, and may be renewed thereafter for periods not to exceed three (3) years provided application thereof shall be made at least sixty (60) and no more than one hundred twenty (120) days before expiration of the original permit. Application after such date shall be treated as an original application.
- ii. Application: Application for a conditional use permit shall be made on forms supplied by the Waukesha County Department of Parks and Land Use and shall be accompanied by a fee as may be established and periodically modified under Section 41(b)5 of this Ordinance. Such fee shall be paid by cash, check or money order to the Waukesha County Department of Parks and Land Use, and shall be accompanied by:
 - a. A full and adequate description of all phases of the contemplated operation and the specific mention of type of machinery and equipment which will be or might be necessary to carry on the operation. Where the operation is to include the washing of sand and gravel, the estimated daily quantity of water required, its source and its disposition shall be made part of the description.
 - b. A legal description of the proposed site with a map showing its location with indications of private access roads, existing or proposed, and of public highways adjacent to the site which will be affected by the operation.

- c. A topographic map of the area at a minimum contour interval of five (5) feet extending beyond the site to the nearest public street or highway or to a minimum distance of three hundred (300) feet on all sides.
- d. A reclamation plan as required by Section 4(g)25.G and Chapter 14, Article XIV, County Code of Ordinances – Nonmetallic Mining Reclamation Ordinance or any applicable nonmetallic mining reclamation ordinance adopted by the town in which the subject quarrying site is located.

B. *Procedure for action on applications:*

- i. Referral to Plan Commission: The application and all data and information pertaining thereto shall be referred to the Plan Commission and the Waukesha Zoning Agency for a joint public hearing and the Plan Commission shall make a report and recommendation to the Town Board within thirty (30) days after the public hearing.
- ii. Public hearing: Within thirty (30) days after an application has been filed, a joint public hearing shall be held at which all interested parties may be heard. In addition to the normal posting and publishing, notices also shall be sent through the mail or otherwise placed in the hands of all land owners within a half mile radius of the approximate center of the proposed quarrying operation. These notices shall be mailed or delivered at least ten (10) days prior to the date of hearing. Substantial compliance with the notice requirements of this section shall be deemed sufficient.
- iii. Action by the Town Board: The Town Board shall, within fourteen (14) days after receipt of the recommendation of the Plan Commission, take action to approve or disapprove the application for the proposed quarrying operation and shall be guided by consideration of the public health, safety and welfare, and shall give particular consideration to the following factors in making their decision:
 - a. The effect of the proposed operation on existing roads and traffic movement in terms of adequacy, safety and efficiency.
 - b. The effect of the proposed operation on drainage and water supply.
 - c. The possibility of soil erosion as a result of the proposed operation.
 - d. The degree and effect of dust and noise as a result of the proposed operation.
 - e. The practical possibility of reclamation of the site.
 - f. The effect of the proposed operation on the natural beauty, character, tax base, land value, and land uses in the area.
 - g. The most suitable land use for the area with particular consideration for future residential value.

- iv. Approval by Zoning Agency: The determination of the Town Board shall be immediately transmitted to the County Zoning Agency which shall within thirty (30) days approve or disapprove of the determination.
- v. Additional conditions: Any conditions accessory to the granting of a permit shall be in writing and copies made a part of the permit and a part of the records of the Town and of the County Zoning Agency.
- vi. Renewals: The procedure as designated in i, ii, iii, iv and v above shall apply to applications of renewal of a permit. Determination in regard to renewal shall be based particularly on an evaluation of the effect of the continuance of the use with relation to changing conditions in the area. Where renewal is not granted, the reasons for refusal shall be presented to the applicant in writing and made a part of the records of the Town and of the County Zoning Agency.

C. *General Requirements:*

- i. No part of the quarrying operations shall be permitted closer than one thousand (1,000) feet, nor shall any accessory access road, parking area or office building be permitted closer than five hundred (500) feet to a district zoned A-2, A-3, A-4, R-1, R-2, R-3 at the time of the grant of permit except with the written consent of the owners of all A-2, A-3, A-4, R-1, R-2, R-3 zoned properties within one thousand (1,000) feet, or except in a quarrying or general industrial district, but in no case shall such operation be permitted closer than two hundred (200) feet to any residential district.
- ii. No quarrying operation shall be permitted except in a quarrying or general industrial district if thirty (30) or more families reside within a band one-half mile wide around the perimeter of the proposed operation.

D. *Setback requirements:* No part of the quarrying operation other than access roads shall be located closer than two hundred (200) feet, nor shall any accessory parking area, stock pile, or office building be located closer than one hundred (100) feet to the base setback line along any street or highway.

E. *Offset requirements:* No part of the quarrying operation shall be permitted closer than two hundred (200) feet, nor shall any accessory access road, parking area, or office building be located closer than fifty (50) feet to any property line except with the written consent of the owner of adjoining property, or except where said line is abutting a quarrying or general industrial district, or abutting an existing quarrying operation, but in no case shall such operation be closer than twenty (20) feet to any property line except by agreement between abutting quarrying operations, or be in conflict with the provisions of Section 3(d)5 relating to preservation of topography.

F. *Operational Requirements:*

- i. Fencing or other suitable barrier shall be erected and maintained around the site or around portions of the site where in the determination of the Town Board such fencing or barrier is necessary for the protection of the public, and shall be of a type approved by the Town Board.

- ii. All machinery and equipment used in the quarrying operation shall be constructed, maintained and operated in such a manner as to minimize dust, noise and vibration. Access and haulage roads on the site shall be maintained in a dust-free condition by surfacing or treatment as directed by the Town Engineer.
- iii. The crushing, washing, refining, or other processing other than the initial removal of material, may be permitted as an accessory use only as specifically authorized under the terms of the grant of the permit or as otherwise provided in a quarrying or general industrial district.
- iv. In stone quarries, the production or manufacturing of veneer stone, sills, lintel, cut flagstone, hearthstones, paving stone and similar architectural or structural stone and the storing or stock-piling of such products on the site shall be considered a permissible part of the operation, provided such production does not require the use of crushing or other heavy machinery except as may be otherwise specifically authorized under the terms of the grant of the permit or as otherwise provided in a quarrying or general industrial district.
- v. The manufacture of concrete building blocks or other similar blocks, the production or manufacture of lime products, the production of ready-mixed concrete and any similar production or manufacturing processes which might be related to the quarrying operation shall not be permitted except as otherwise provided in a quarrying or general industrial district.
- vi. The washing of sand and gravel shall be prohibited in any operation where the source of water is of doubtful capacity or where the quantity of water required will, in the opinion of the Town Engineer, seriously affect the water supply of other uses in the area.
- vii. The planting of trees and shrubs and other appropriate landscaping shall be provided where deemed necessary by the Plan Commission to screen the operation so far as practical from normal view, to enhance the general appearance from the public right-of-way, and generally to minimize the damaging effect of the operation on the beauty and character of the surrounding countryside. Such planting shall be started as soon as practicable, but no later than one (1) year after quarrying operations have begun and shall be done according to the recommendations of the Waukesha County Department of Parks and Land Use.
- viii. Except in a quarrying or General Industrial District, quarrying operations shall not begin before the hour of 7:00 a.m. and shall not continue after the hour of 6:00 p.m. and no operation shall take place on Sundays or legal holidays. During periods of national or unusual emergency, times and hours of operation may be altered at the discretion of the Town Board and through the issuance of a special permit which shall be renewable at thirty (30) day intervals.

G. *Reclamation requirements:*

- i. In order to insure that the area of the quarrying operation shall be reclaimed to a condition of practical usefulness and reasonable physical attractiveness, the owner and operator shall, prior to the issuance of a permit, submit to the Town or the Waukesha County Department of Parks and Land Use – Land Resources Division, as applicable, a plan for such reclamation in accordance with Chapter 14, Article XIV, County Code of Ordinances – Nonmetallic Mining Reclamation Ordinance or any applicable nonmetallic mining reclamation ordinance adopted by the town.
- ii. If minor changes are proposed to the adopted reclamation plan, a revised plan shall be submitted to the Town Engineer and the Waukesha County Department of Parks and Land Use – Land Resources Division for review and approval prior to proceeding with reclamation. If major changes are proposed to the adopted reclamation plan, a joint informational public hearing, scheduled by the Waukesha County Department of Parks and Land Use – Land Resources Division with the affected town(s), shall be held to solicit input on the proposed changes. If the changes are approved, a revised reclamation plan shall be submitted to the Town Engineer and the Waukesha County Department of Parks and Land Use – Land Resources Division for review and approval prior to proceeding with reclamation. If the changes are not approved, reasons for the decision shall be provided, in writing, to the owner and operator.

H. *Exceptions:*

- i. The provisions of this Section, 4(g)25, shall not apply to the removal of sod.
- ii. When the operation is limited to the removal of topsoil, the Plan Commission and the County Zoning Agency may, consistent with the intent of these regulations, modify any or all of the provisions of this Section 4(g)25, provided, however, that in no case shall such operation be permitted closer than ten (10) feet from any property line, or to a depth in excess of eighteen (18) inches or so as to adversely affect the drainage of the area.
- iii. Where the quarrying operation will involve the commercial disposal of the material removed from a quarrying operation, the approval of the Plan Commission and the County Zoning Agency shall be required and such operation shall comply with the provisions of Section 4(g)25 and shall be limited to a maximum period of six (6) months.
- iv. In a quarrying or general industrial district the Plan Commission and County Zoning Agency may, consistent with the intent of these regulations, modify the provisions relative to permitted hours of operation; and where the character of the terrain, of surrounding development, or other special conditions would justify such modification, may permit a reduction in the required setback or offset; provided, however that in no case shall the setback be less than one hundred (100) feet, or the offset be less than one hundred (100) feet for quarrying operations or twenty (20) feet for any accessory access road, parking area, or office building except as may be otherwise provided by Sections 4(g)25.D and 4(g)25.E.

- I. *Application for existing operations:*
- i. Permit: Within sixty (60) days after the adoption of this Ordinance all existing quarrying operations shall be required to register with the town clerk submitting pertinent data relative to the present operation, including the boundaries of the actual operation and of the ownership. A conditional use permit shall be granted to such existing operation subject to compliance with the operational requirements, Section 4(g)25.F, of this Ordinance where they can be reasonably applied under existing circumstances.
 - ii. Plan for reclamation: There shall be required within one (1) year after adoption of this Ordinance, the submission of a plan for reclamation of the site of any existing quarrying operation as provided by Section 4(g)25.G The plan for reclamation in such case shall not, however, impose requirements which are economically or engineeringly unreasonable with respect to conditions resulting from operations prior to enactment of this Ordinance.
 - iii. Renewal permit: Within three (3) years after the date of this Ordinance any such existing operation shall be required to make application for a renewal permit the same as for re-application in the case of a new operation under this Ordinance except in a quarrying or general industrial district.

SECTION 4(g)26

Repeal and recreate Section 4(g)26 to read as follows:

26. Restaurants, Supper Clubs, Lake Resorts, Taverns and Similar Uses: In B-2 and B-3 Business districts such uses shall be considered permitted uses by right. In all other districts, except the A-B, A-T, FLP, FLC., A-5, C-1, HG, P-1 and EC Environmental Corridor districts, the above uses shall be considered conditional uses, subject to the following:
- A. The minimum lot area shall be at least three (3) acres and at least two hundred (200) feet in minimum in average width.
 - B. Off-street parking shall be provided within two hundred (200) feet of the building in which such use is occurring, but offset twenty (20) feet from any lot line of an adjacent property zoned agricultural and any residential zoning district. The amount of space required shall be in accordance with the requirements contained in 3(k)1.C.
 - C. A planting screen of at least six (6) feet in initial height shall be provided between any abutting Residential District and the proposed conditional use. Additional screening may be required by the Plan Commission or the County Zoning Agency.
 - D. The proposed building shall be offset at least fifty (50) feet from any adjoining residential district and one hundred (100) feet from the high water mark of any lake or navigable body of water.
 - E. The location and building plans and a Site Plan and Plan of Operation shall be submitted to and approved by the plan commission and the zoning agency.

SECTION 4(g)28

Repeal and recreate Section 4(g)28 to read as follows:

28. Other uses or situations not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 3(e) and in the judgment of the plan commission and county zoning agency, meet the intent of a conditional use as set forth in Section 4(a). Any such uses within the FLP or FLC Districts must comply with Section 11.

SECTION 6(a)

Repeal and recreate Section 6(a) to read as follows:

(a) Establishment of districts

For the purpose of this Ordinance, the county is hereby divided into zoning districts which shall be designated as follows:

- A-B Agricultural Business District
- FLC Farmland Conservancy District
- A-O Existing Agricultural Overlay District
- FLP Farmland Preservation District
- A-T Agricultural Transition District
- A-1 Agricultural District
- A-2 Rural Home District
- A-3 Suburban Estate District
- A-4 Country Estate District
- A-5 Mini-Farm District
- AD-10 Agricultural Density-10 District
- B-1 Restricted Business District
- B-2 Local Business District
- B-3 General Business District
- B-4 Community Business District
- B-P Mixed Use Business Park District
- C-1 Conservancy District
- C-1 Conservancy Overlay District
- DSO Delafield Shoreland Overlay District
- EC Environmental Corridor District
- EC Environmental Corridor Overlay District
- EFD Existing Floodplain Development Overlay District
- M-1 Limited Industrial District
- M-2 General Industrial District
- P-I Public and Institutional District
- Q-1 Quarrying District
- R-1 Residential District
- R-2 Residential District
- R-3 Residential District
- RRD-5 Rural Residential Density District

SECTION 6(b)1.B.

Repeal and recreate Section 6(b)1.B. to read as follows:

- B. Floodplains: The boundaries of the floodplains shall be those areas designated as A or A-E on the FEMA Flood Insurance Rate Maps based on the Flood Insurance Study, including all areas covered by the Regional or Base Flood; those Floodplains identified as an Official Map below approved by WDNR; or as depicted as C-1 Conservancy District or EFD Existing Floodplain Development Overlay District on the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps referenced in Section 3(a) of this Ordinance, or as subsequently determined by the Zoning Administrator pursuant to Section 6(b)1.B.3, whichever boundary designates a greater Floodplain area.

Base Flood elevations are derived from the Flood Profiles in the Flood Insurance Study published by FEMA. Areas covered by the Base Flood are identified as AE (numbered A-Zones) on the Flood Insurance Rate Map. Other regulatory zones are displayed as A Zones. Regional Flood Elevations may be derived from other studies and are approved by WDNR.

Any change to the Base Flood elevations (BFE) or any changes to the boundaries of the Floodplain or Floodway in the Flood Insurance Study or on the Flood Insurance Rate Map must be reviewed and approved by the WDNR and FEMA through the Letter of Map Change process and through Section 39 of this Ordinance before it is effective. No changes to Regional Flood Elevations (RFE's) on non-FEMA maps shall be effective until approved by the WDNR.

A list of the official Floodplain maps to be used in conjunction with the Waukesha County Shoreland and Floodland Protection Ordinance Zoning Maps is listed as follows. These maps and revisions for unincorporated Waukesha County are on file in the office of the Waukesha County Planning and Zoning Division located in the Waukesha County Administrative Center in Waukesha, Wisconsin. If more than one map or revision is referenced, the most restrictive information shall apply.

SECTION 6(b)3

Repeal and recreate Section 6(b)3 to read as follows:

3. Determination of boundaries for C-1 Conservancy District, EFD Existing Floodplain Development Overlay District, and FLC Farmland Conservancy District: The boundaries of the C-1 Conservancy District, EFD Existing Floodplain Development Overlay District and FLC Farmland Conservancy District as drawn are intended to represent the edge of marsh lands, swamps, floodlands, wetlands or the ordinary high water mark along streams or other watercourses. Where a question arises as to the exact location of those boundaries, they shall be determined by the Zoning Administrator or the County Zoning Agency through the utilization of the best available information such as topographic maps, soil maps, aerial photographs, infield botanical inventories, floodplain studies or other sources of information available which would lend assistance to such a determination and may be finally determined by actual conditions in each specific situation. An appeal to this determination may be made in conformance with Section 38 of this Ordinance. It is generally the intent of this Ordinance to place all wetlands and lands subject to inundation by the regional flood in either the C-1 district or EFD district if the areas are previously developed. Where land may be subject to inundation by the regional flood and a hydraulic and hydrologic analysis has not been prepared and/or the area is not indicated or mapped as floodplain, a detailed hydraulic and hydrologic analysis shall be prepared and

reviewed and found to be adequate by the WDNR or its designated agency, in which case the new floodplain data will be used in the administration of this Ordinance. The Zoning Administrator shall map these floodplain areas in appropriate zoning districts within six (6) months of the time the WDNR has determined the acceptability of the data and said mapping shall be done pursuant to Section 39 of this Ordinance. Any changes or amendments in the mapped floodplains and made a part of this Ordinance shall be approved by the WDNR in accordance with the procedure set forth in Section 39 of this Ordinance.

If an area is found that has not been previously identified or mapped as a floodplain or a wetland and not zoned as C-1 Conservancy or EFD Existing Floodplain Development Overlay, or a determination of navigability is made and a stream is subsequently found to be navigable, said stream and any shoreland, wetland or floodplains as defined herein, shall immediately become subject to the provisions of this Ordinance. If the floodplain has not been determined, said area of approximate floodplain and wetlands shall be considered to be subject to the C-1 and/or EFD regulations of this Ordinance. Appropriate procedures to establish Shoreland Zoning districts beyond that which is considered C-1 Conservancy or EFD Existing Floodplain Development Overlay shall be initiated under the mapping amendment procedure pursuant to Section 39 of this Ordinance and as set forth above. Water quality related standards of the Shoreland and Floodland Protection Ordinance are in effect immediately upon a determination of navigability or identification of a shoreland/wetland or floodplain (i.e., setback, grading, and land altering activities, vegetation removal).

SECTION 6(b)4

Repeal and recreate Section 6(b)4 to read as follows:

4. Discrepancy of wetland boundaries: In the case of any discrepancy regarding a boundary between any mapped or newly determined wetland, the Zoning Administrator may make a determination or consult with the WDNR and coordinate the appropriate onsite investigation to determine the exact boundary. If the WDNR staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland or vice versa, the Zoning Administrator shall have the authority to immediately deny or grant a zoning permit in accordance with the regulations applicable to the correct zoning district designation as it may be modified by such field determination. A notation shall be made on the map indicating that such a change has been made for future reference purposes. Utilizing the procedures above, if an area is found to be inappropriately mapped in a C-1 Conservancy, EFD Existing Floodplain Development Overlay or FLC Farmland Conservancy District category, the Zoning Administrator shall have the authority to designate a district for the subject area consistent with the upland category which may exist adjacent to the site without necessity of a formal amendment process and shall note said changes on the zoning map within 6 months of said determination.

SECTION 7.1

Create Section 7.1 to read as follows:

SECTION 7.1 C-1 CONSERVANCY OVERLAY DISTRICT

All parameters and requirements of Section 7 C-1 Conservancy District shall apply to lands mapped C-1 Conservancy Overlay District. The underlying base zoning district designation standards shall only be applicable if an in-field determination finds that all or a portion of a property within said overlay district

is erroneously mapped. All references to the C-1 District or C-1 Conservancy District within this Ordinance shall also apply to the C-1 Conservancy Overlay District.

SECTION 8(b)1

Repeal and recreate Section 8(b)1 to read as follows:

(b) Use regulations: Permitted Uses

1. Any use as permitted in the C-1 Conservancy district.

SECTION 9(e)2.B.

Repeal and recreate Section 9(e)2.B. to read as follows:

- B. Lands which lie within a larger parcel or tract of land, the remainder of which is zoned either FLP Farmland Preservation District or FLC Farmland Conservancy District shall have a minimum (gross) parcel size of thirty-five (35) acres.

SECTION 9.1

Create Section 9.1 to read as follows:

Section 9.1 EC ENVIRONMENTAL CORRIDOR OVERLAY DISTRICT

All parameters and requirements of Section 9 EC Environmental Corridor District shall apply to lands mapped EC Environmental Corridor Overlay District. If an in-field determination finds that all or a portion of a property within said overlay district is erroneously mapped, the field determined boundaries shall immediately become subject to the applicable district regulations. Lands with an underlying zoning designation of FLP Farmland Preservation District shall comply with the more restrictive parameters of the FLP District but shall be allowed limited disturbance within EC areas if authorized in accordance with Section 11(i)(3)(d). All references to the EC District or EC Environmental Corridor District within this Ordinance shall also apply to the EC Environmental Corridor Overlay District.

SECTION 10

Repeal and recreate Section 10 to read as follows:

SECTION 10 FLC FARMLAND CONSERVANCY DISTRICT

(a) Purpose and intent

This district is intended to apply to those areas that are designated on the Comprehensive Development Plan for Waukesha County for Farmland Preservation and which are presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and/or the presence of natural vegetation indicative of wet soils. The intent of the district is to preserve and maintain agricultural uses on lands suited for such purposes. They often include lands poorly suited for urban or suburban development while being particularly well suited for some types of agricultural use.

In this district, structures related to farm operations, including existing dwellings, are deemed consistent with the purpose of this section where the location of buildings associated with the permitted agricultural operation is found to conform with health,

sanitation and safety provisions of this and any other state regulation or local ordinance. Determination of such suitability shall be evidenced by on-site examination and evaluation. The intent for mapping purposes is that lands within this district shall have exhibited those agricultural uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. If a new lot of less than 35 acres is proposed and a portion of the lands to be included in the lot area are zoned FLC District, said lands may only be included within the lot area if the proposal complies with the siting, density, area, etc. parameters of the FLP District.

(b) Use regulations: Permitted uses

1. Any uses and structures permitted in the C-1 Conservancy district and if located in a wetland or floodplain, the provisions of Section 7(c)2 must be met.
2. Agricultural Uses, as defined within this Ordinance, except fur and pig farms and poultry and/or egg production which require Conditional Use authorization pursuant to Section 10(c)4. Such uses shall not fill or convert wetlands or floodplains.
3. Agricultural Accessory Uses including existing single-family dwellings that existed on January 1, 2014 and shelters for housing animals that comply with Section 2(b)14. of this Ordinance or permitted as an appurtenance to a Farm Residence, except that no structure shall be located in a floodplain or wetland or upon lands not suited due to soil limitations. Any existing structures within floodlands must conform to Section 8 of this Ordinance.
4. Nurseries, greenhouses and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.
5. Road side stands, subject to the provisions of Section 11(d)(2)(E).
6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.
7. Any variance granted for structures located in the Floodplain shall meet the Floodplain criteria specified in Section 38 of this Ordinance.

(c) Conditional uses

Conditional uses, as provided in Section 4(g)(1) and listed below, and in accordance with the procedural requirements of Section 4(g) and the provisions of Section 11(e):

1. Landing Fields and Take Off Strips serving agricultural or municipal uses.

2. Animal Hospitals and Veterinarian Clinics; and Commercial Dog Kennels but only if they comply with the Farm Family Business provisions of ATCP 49.
3. Commercial Truck Parking, except that such use may be allowed but only if incidental to and compatible with the continued long term agricultural use of the lands as determined by the Town Plan Commission and the County Zoning Administrator and comply with the Farm Family Business provisions of ATCP 49.
4. Fur Farms, Pig Farms, Creameries, Condensories, Commercial or Custom Grain Drying Operations and Poultry and/or Egg Production.
5. Existing non-metallic mineral extraction or quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands which make up the major portion of lands in the FLC or FLP Districts (i.e., sand and gravel removal on non-productive lands, for example).
6. Private Clubs and Resorts (including commercial boarding stables), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., private hunt clubs during the non-growing season, for example).
7. Land altering activities in accordance with the requirements of Section 3.08(7)(AA), provided such activities do not negatively affect the long-term suitability of the lands for agricultural purposes.
8. Limited Family Businesses, as provided for and in accordance with all parameters of Section 3.08(7)(KK). Said uses must comply with the Farm Family Business provisions of ATCP 49.
9. In-law units, pursuant to Section 4(g)13., provided that the density requirements of the Farmland Preservation Plan are complied with.
10. Other uses, situations, or non-farm type businesses not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 4S and in the judgment of the Town Plan Commission and County Zoning Agency, meet the intent of a conditional use as set forth in Section 4 and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

(d) **Building location**

Residential use structures must comply with the requirements of Section 11(f) and structures are subject to the following locational requirements:

1. Setback: Thirty-five (35) feet minimum
2. Offset: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

(e) **Height regulations**

1. Residential buildings:
 - A. Residence: Thirty-five (35) feet maximum.
 - B. Accessory: Twenty (20) feet maximum.
2. Farm buildings:
 - A. Sixty (60) feet maximum.
 - B. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, shore/C-1 setback, and offset all equal or exceed the height of the structure.
3. Refer to Section 3(i) of this Ordinance for additional height regulations.

(f) **Area regulations**

1. Floor area: Minimum required for single-family dwelling where permitted.
 - A. Minimum required:
 1. First floor: Nine hundred (900) square feet.
 2. Total, one (1) family: One thousand one hundred (1,100) square feet.
 - B. Minimum and maximum parcel size:
 1. Parcel Size must comply with the parameters of Section 11(i)(4) and Section 11(i)(5).
2. Maximum floor area ratio permitted: Ten (10) percent

(g) Rezoning lands out of FLC District

1. Except as provided in Section 10(g)(2), lands may not be rezoned out of the FLC District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - A. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - B. The rezoning is consistent with any applicable comprehensive plan.
 - C. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.
 - D. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
2. Subsection 10(g)(1) does not apply to any of the following:
 - A. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.
 - B. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
3. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLC District during the previous year and a map that clearly shows the location of those acres.

(Ord. No. 141-44, §§ XLVI, 7-22-1986)

(Section 10(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 10(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 10(b)7 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 10(c) was amended by Enrolled Ordinance 165-69, effective 12-23-2010)

(Section 10(e)2, formerly Section 6.05, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 10(f)2 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 11

Repeal and recreate Section 11 to read as follows:

SECTION 11 FLP FARMLAND PRESERVATION DISTRICT

(a) **Purpose and Intent**

The intent and purposes of the FLP Farmland Preservation District are:

1. To maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses.
2. To maintain a viable agricultural base and associated agricultural supportive uses.
3. To protect and preserve the rural landscape.
4. To implement the provisions of the Waukesha County Farmland Preservation Plan.
5. To comply with the provisions of the Wisconsin Farmland Preservation Law which permits eligible landowners to receive tax credits under Section 71 of the Wisconsin State Statutes.
6. To maintain a use that adds to the economic base of the County.

(b) **Lands to be included within the FLP Farmland Preservation District.** Lands that are to be included or mapped within the FLP District are limited to those lands that have been designated for farmland preservation in the adopted Waukesha County Farmland Preservation Plan.

(c) **Land Uses in the FLP Farmland Preservation District; General.** Only the following land uses are allowed in a Farmland Preservation District:

1. Uses allowed under Section 11(d) as a Permitted Use.
2. Uses allowed under Section 11(e) with a Conditional Use Permit.
3. Legal nonconforming uses, subject to Wisconsin State Statutes.

(d) **Use Regulations: Permitted Uses**

1. Agricultural Uses as defined in this Ordinance.
2. Agricultural Accessory Uses as defined in this Ordinance and subject to the following requirements:
 - A. Living quarters for full-time farm employees if the unit is within 200 feet of the existing cluster of farm buildings, is served by a common driveway, and is intended and necessary for the farm operation. Occupancy of such living quarters is limited to full-time hired employees of the farming operation and their

immediate family. Such living quarters may not be inhabited by the farm owners. Only one such quarters for full-time farm employees is permitted on a lot. An In-Law Unit requires a conditional use permit.

- B. Home occupations as regulated in Section 18(a)6 of this Ordinance if said particular use complies with the farm family business provisions as specified by rule by the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP).
 - C. Private hobby kennels as regulated in Section 18(a)8 of this Ordinance.
 - D. Farm buildings housing animals, barnyards, and feedlots that are not located within a floodland, nor closer than one hundred (100) feet to any navigable water course, nor closer than one hundred (100) feet to an existing adjacent dwelling.
 - E. Road side stands, subject to the following requirements:
 - 1. Temporary road side stand structures shall be no more than 100 square feet in size.
 - 2. Off-street parking for a minimum of five (5) vehicles must be provided and there shall be no parking within the right-of-way of the public road.
 - 3. No such stand shall be closer than thirty (30) feet to the base setback line or closer than twenty (20) feet to any lot line.
 - 4. Only produce and farm products can be displayed for sale.
 - 5. Road side stands with a permanent building shall require Site Plan and Plan of Operation approval in accordance with Section 3(c)(6) of this Ordinance and shall comply with all size and locational requirements of the zoning district in which a stand is located.
 - F. Nurseries, orchards, greenhouses/horticulture/floriculture, viticulture, apiculture, forestry, and hatcheries limiting the retail sales of such product to that which is produced on the premises by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the Town Plan Commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.
 - G. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.
3. Agriculture-Related Uses as defined in this Ordinance and subject to the requirements of Chapter 91 of the Wisconsin Statutes and subject to the review and approval of a Site Plan and Plan of Operation by the Plan Commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.

4. Pre-existing Nonfarm Residences that existed as of January 1, 2014 and Farm Residences that existed as of May 31, 2015.
5. A transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc) transmission, distribution, or pipeline, drainage, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that pre-empts the requirement for a Conditional Use Permit for that use as outlined in Section 11(e)(3)(c) below.
6. Legal non-conforming uses.
7. Other uses identified by DATCP rule and which are deemed consistent with the stated purpose and intent of this District subject to approval of the Town Plan Commission and the Zoning Administrator. The Zoning Administrator shall make a determination as to whether such uses must obtain Conditional Use approval for unspecified uses.

(e) Use Regulations: Conditional Uses

1. Conditional uses as provided for in Section 4(g) and Section 11(e)(3) and pursuant to the procedural requirements of Section 4(g), and if all of the following apply:
 - A. The use and its location in the FLP District are consistent with the purposes and intent of the FLP District.
 - B. The use and its location in the FLP District are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - C. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
 - D. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
 - E. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
 - F. The use does not conflict with surrounding land uses.

The following additional standards apply to Non-Metallic Mineral Extraction or Quarrying Conditional Use requests:

- G. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. § 295.13 or Wis. Stat. § 295.14 (including all applicable provisions of this Ordinance), and with any applicable requirements of the Department of Transportation concerning the restoration of nonmetallic mining sites.
 - H. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
 - I. The requirements of 4(g)25 of the Ordinance shall be met.
2. Prior to the issuance of a Conditional Use Permit for an approved Conditional Use in the FLP District, any requirements listed for an individual Conditional Use under Section 4(g), in Section 11(e) of the FLP District, or imposed as part of the Conditional Use approval must first be satisfied.
 3. The list of Conditional Uses that may be applied for within the FLP District is as follows:
 - A. Government, nonprofit community uses, institutional, buildings for religious assembly, cemeteries and mausoleums for the burial of human remains only, and other public and semi-public buildings and uses – as defined in this Ordinance.
 - B. Non-Metallic Mineral Extraction or Quarrying (as defined in this Ordinance), except that such use may be allowed only if incidental to and compatible with the continued long term agricultural use of the lands (i.e., sand and gravel removal on non-productive lands, for example)
 - C. Transportation, communication, utility (electric, gas, telephone, cable, fiber optic, water, sewer, etc) transmission, distribution, or pipeline, drainage, or other uses not allowed as a permitted use in Section 11(d)6 above.
 - D. Animal Hospitals and Veterinarian Clinics; and Commercial Dog Kennels but only if they comply with the Farm Family Business provisions of ATCP 49.
 - E. Commercial Truck Parking, except that such use may be allowed but only if incidental to and compatible with the continued long term agricultural use of the lands as determined by the Town Plan Commission and the County Zoning Administrator and comply with the Farm Family Business provisions of ATCP 49.
 - F. Fur Farms, Pig Farms, Creameries, Condenseries, Commercial or Custom Grain Drying Operations and Poultry and/or Egg Production.
 - G. Landing Fields and Take Off Strips serving agricultural or municipal uses.
 - H. Private Clubs and Resorts (including commercial boarding stables), except that such use may be allowed only if incidental to and compatible with the continued

long term agricultural use of the lands (i.e., private hunt clubs during the non-growing season, for example).

- I. Land altering activities in accordance with the requirements of Section 4(g)(14), provided such activities do not negatively affect the long-term suitability of the lands for agricultural purposes.
- J. Limited Family Businesses, as provided for in accordance with all parameters of Section 4(g)(16). Said uses must comply with the Farm Family Business provisions of ATCP 49.
- K. In-law units, pursuant to Section 4(g)13, provided that the density requirements of the Farmland Preservation Plan are complied with.
- L. Other uses, situations, or non-farm type businesses not specifically provided for in this conditional use section and which may be determined to be acceptable under the provisions of Section 11(e) and in the judgment of the Town Plan Commission and County Zoning Agency, meet the intent of a conditional use as set forth in Section 4(a) and comply with the Farm Family Business provisions of ATCP 49, also referred to as an Unspecified Conditional Use in this Ordinance.

(f) **Building Location**

1. Road Setback:

- A. Residential Use Structure: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance.
- B. Accessory or Farm Building: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

2. Offset:

- A. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.
- B. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

3. Shore/C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance.

(g) **Height Regulations**

1. Residential buildings:

- A. Residence: Thirty-five (35) feet maximum.

- B. Accessory: Twenty (20) feet maximum.
- 2. Farm buildings:
 - A. Sixty (60) feet maximum.
 - B. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, shore/C-1 setback, and offset all equal or exceed the height of the structure.
- 3. Refer to Section 3(i) of this Ordinance for additional height regulations.

(h) Area Regulations

- 1. Floor area, minimum required:
 - A. Minimum first floor - nine hundred (900) square feet.
 - B. Total floor area - one thousand one hundred (1,100) square feet.
- 2. Maximum floor area ratio permitted: Ten (10) percent.

(i) New Residences and Lots

New residences and new lots or parcels of less than 35 acres shall be prohibited for lands currently zoned FLP District and shall only be authorized if in accordance with the following requirements:

- 1. Rezoning required. New residences and new lots or parcels of less than 35 acres in area are not permitted within the FLP District without the benefit of rezoning. If a new Residence or lot of less than 35 acres is proposed for lands currently zoned FLP District, the land must first be rezoned to the R-1 Residential District where farm or residences are a permitted use. Lands to be rezoned must comply with the density parameters of the Comprehensive Development Plan for Waukesha County that are described in detail in Section 11(i)(2) below. Prior to submitting an application to rezone lands currently zoned FLP District, petitioners shall participate in a concept review meeting to be held with the respective town Planner and Waukesha County Planning & Zoning Staff to discuss proposed density and lot siting and compliance with the below stated requirements of this section.

If a lot of less than 35 acres is permitted via the rezoning process, the remnant lands can be less than 35 acres in area provided that a deed restriction is recorded against said lands prohibiting construction of residences or non-farm buildings.

New Nonfarm Residences must also comply with the standards set forth in Chapter 91 of the Wisconsin Statutes.

- 2. Density. A maximum density of one (1) dwelling unit per thirty-five (35) acres shall be permitted for lands designated for Farmland Preservation on the adopted Comprehensive Development Plan for Waukesha County. Existing dwelling units and land divisions that have taken place after the dates specified below shall be used in computing available

density. If only part of a parcel is within the County's shoreland jurisdictional area, the entire property's acreage, number of existing dwelling units and prior land divisions from parent parcels shall be considered in determining available density.

- A. Density Considerations- land divisions after January 1, 1997: New lots or parcels of less than 35 acres that were created from a parent parcel or parcels that comprised a farm, as it existed on January 1, 1997, and that were located on lands designated "Agricultural Preservation" or "Farmland Preservation" at the time of land division on the Comprehensive Plan for Waukesha County, shall be counted in determining the available density or "development rights" remaining for a farm as it was configured on May 31, 2015. The number of available development rights shall be reduced by one development right for each such lot that was created after January 1, 1997. Farm boundaries, as of May 31, 2015, have been mapped on the "Farm Tracking Unit" layer on the Waukesha County GIS website in order to make available density information readily available. Density tracking is further described in Section 11(i)(2)(d).

Example: 105 acre farm comprised of two parcels in the same ownership.

Step 1- 35 Acre Density Calculation = 105 acres/35= 3 (Maximum number of dwelling units before consideration of existing dwelling units and recent land divisions).

Step 2- Account for existing dwelling units and land divisions that created parcels of less than 35 acres after January 1, 1997: The farm contains one house. (counts as one dwelling unit) and a lot of less than 35 acres was split from the farm by Certified Survey Map in 2001 (counts as second dwelling unit)= total of 2.

Step 3- Subtract total of Step 2 from Step 1 to adjust for existing dwelling units and parcels of less than 35 acres created since January 1, 1997. (3 minus 2= 1).

*Summary- Available dwelling units/Development rights:
Farm is entitled to one additional dwelling unit or development right.*

- B. Density Exception for Legal Lots of Record that existed on May 31, 2015: Existing legal lots of record as of May 31, 2015 that are less than thirty-five (35) acres in size shall be entitled to one (1) dwelling unit if a dwelling unit does not already exist on the parcel, with the following exceptions:

1. If new lots or dwelling units have been created from a parent parcel or farm after 1997 without the benefit of a comprehensive development plan amendment from the Farmland Preservation category to another appropriate land use category, and thirty-five (35) acre density cannot be maintained with the addition of another dwelling unit, then no additional dwelling units are permitted.
2. If a prior imposed rezoning condition, deed restriction, conveyance, or some other official action prohibiting future land splits or dwelling units exists, then no additional dwelling units shall be permitted on said existing legal lot of record.

- C. Review of Land Divisions. All land divisions, including transfers of adjacent land, that are proposed in towns that are subject to the Waukesha County Zoning Code and involve land that is in the planned “Farmland Preservation” category of the Comprehensive Development Plan for Waukesha County shall be reviewed and approved by the respective town and Waukesha County, regardless of whether the parcel contains shoreland jurisdiction, so that Development Plan density compliance can be ensured and tracked over time.

Each residence that is permitted shall be placed on a separately described parcel created in conformance with the town and County Comprehensive Development Plans, the Farmland Preservation Plan, the minor land division regulations of the town in which they are located, this Ordinance, and the Waukesha County Shoreland Floodland Subdivision Control Ordinance (Appendix D), as applicable.

- D. Density Tracking. Available density or dwelling units are tracked by a mapping layer on the Waukesha County Geographic Information System. Each farm consisting of one or more contiguous parcels that were owned by a common owner or owners as of May 31, 2015 have been assigned a “Farm tracking unit” name and number. Farm Tracking Units have been created to track the number of lots or dwelling units (development rights) that a farm or farm owner is entitled to when applying the density considerations of Section 11(i)(2)(a, b).

Each time that a new dwelling unit or lot is created in the future, in accordance with the standards of Section 11, the Farm Tracking Unit data will be updated on the Waukesha County GIS. In addition, a deed restriction must be recorded against the land to disclose the remaining density available to a given Farm Tracking Unit.

- E. Density Transfer. Transfer of density rights from one Farm Tracking Unit to another Farm Tracking Unit or property must be approved by the respective town and Waukesha County Zoning Administrator and will be tracked on the farm tracking unit Waukesha County GIS layer. A deed restriction must be recorded against the land to disclose the density transfer.

3. Siting Standards.

Lands that are zoned FLP but that are proposed to be rezoned to the R-1 District to accommodate new Nonfarm Residences must comply with the following siting standards. Compliance with siting standards shall be considered by the town and Waukesha County as part of the rezoning review process.

- A. New Nonfarm Residences or lots shall be located on uncultivated lands to the greatest extent practicable.
- B. New Nonfarm Residences or lots shall be clustered together to the greatest extent practicable.
- C. New Nonfarm Residences or lots shall be located on non-prime (non-Class I and II) soils to the greatest extent practicable.

- D. New Nonfarm Residences or lots may be permitted within upland Environmental Corridor areas that are zoned FLP District with an EC Overlay District designation provided that the area to be disturbed is rezoned to the R-1 District and provided that the respective town and County have made a determination that alternative building sites located outside of the Environmental Corridor and cultivated lands are not available. If such a determination is made, the maximum area of Environmental Corridor disturbance shall be 15,000 square feet per lot, inclusive of drive areas, septic sites, building sites and any other area to be disturbed. In addition, any authorized disturbance within the Environmental Corridor shall comply with County Comprehensive Development Plan recommendations which call for no more than one dwelling unit per five acres of upland area. A deed restriction shall be recorded in the office of the Register of Deeds identifying and describing the permitted area of Environmental Corridor disturbance prior to Zoning Permit issuance.
- E. Lots shall be located near existing roads to the extent practicable with consideration of the above stated criteria.

4. Lot Size requirements for Lots created by rezoning from the FLP District to the R-1 District

- A. Minimum parcel size, one (1) acre.
- B. Minimum average width for parcels, one hundred and fifty (150) feet.
- C. Maximum parcel size, three (3) acres, except as may be provided in Section 11 (i)5 below for those residual existing dwellings and parcels that result due to Farm Consolidation.

5. Lot Size for Farm Consolidations created by rezoning from the FLP District to the R-1 District

- A. Minimum parcel size, one (1) acre.
- B. Minimum average width: One hundred and fifty (150) feet.
- C. Maximum parcel size, five (5) acres.

(j) Rezoning land out of FLP District

- 1. Except as provided in Section 11(j)(2), lands may not be rezoned out of the FLP District unless the respective town and the County finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - A. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - B. The rezoning is consistent with any applicable comprehensive plan.
 - C. The rezoning is substantially consistent with the County Farmland Preservation Plan, which is in effect at the time of the rezoning.

- D. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
2. Subsection 11(j)(1) does not apply to any of the following:
 - A. A rezoning that is affirmatively certified by DATCP under Ch. 91 of State Statutes.
 - B. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 3. By March 1 of each year, Waukesha County shall provide to DATCP a report of the number of acres that Waukesha County has rezoned out of the FLP District during the previous year and a map that clearly shows the location of those acres.

(Ord. of 11-5-1984, § VI)

(Ord. of 11-5-1984, § VIII)

(Section 11(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 11(c)5 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 12

Repeal and recreate Section 12 to read as follows:

SECTION 12 A-T AGRICULTURAL TRANSITION DISTRICT

- (a) **Purpose and intent**
This district is intended to reflect the transitional nature of lands that are currently in agricultural or open space use but are planned for and are likely to be developed for other land uses over time.
- (b) **Land to be included with A-T Agricultural Transition District:**
 1. Lands used for agricultural purposes.
 2. Vacant lands consisting of fallow or natural resource lands.
- (c) **Use regulations: Permitted uses**
Any permitted use as described in the A-1 Agricultural District.
- (d) **Conditional uses**
Conditional uses as provided in Sections 4(g)1, 2, 3, 5, 7, 8, 9, 10, 12, 13, 14, 15, 16, 23, 24, 25 and 28.
- (e) **Building location**
 1. Road Setback:
 - A. Residential Use Structure: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance.

B. Accessory or Farm Building: Thirty-five (35) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

2. Offset:

A. Residential Use Structure: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance.

B. Accessory or Farm Building: Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum.

3. Shore/C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance. All accessory buildings must be seventy-five (75) feet minimum.

(f) **Height regulations**

1. Residential buildings:

A. Residence: Thirty-five (35) feet maximum.

B. Accessory: Twenty (20) feet maximum.

2. Farm buildings:

A. Sixty (60) feet maximum.

B. Farm buildings may be increased to not more than one hundred (100) feet where the road setback, shore/C-1 setback, and offset all equal or exceed the height of the structure.

3. Refer to Section 3(i) of this Ordinance for additional height regulations.

(g) **Area regulations**

1. Floor area, minimum required:

A. Minimum first floor - nine hundred (900) square feet.

B. Total floor area - one thousand one hundred (1,100) square feet.

2. Maximum floor area ratio permitted: Ten (10) percent.

(h) **Lot size**

1. Minimum parcel size: Twenty (20) acres.

2. Minimum average width: Three hundred (300) feet.

(Ord. of 11-5-1984, § X)

(The title to Section 12 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 13(d)2.A.

Repeal and recreate Section 13(d)2.A. to read as follows:

- A. Buildings used for commercial purposes which include the housing of livestock one hundred (100) feet minimum unless adjacent district is the FLP, A-B, A-O or FLC agricultural districts, in which case twenty (20) feet minimum shall apply.

SECTION 14(a)

Repeal and recreate Section 14(a) to read as follows:

SECTION 14 A-O EXISTING AGRICULTURAL OVERLAY DISTRICT

(a) Purpose and intent

The purpose of this district is to allow for the continued agricultural use of land while recognizing that other land uses of a rural or semi-rural nature other than farming or agricultural may be needed in the general area. It is anticipated that the assignment of this overlay district to specific parcels of land will provide a greater degree of freedom for farm operators and for town plan commissions, town boards and the county zoning agency in dealing with situations where present owners are committed to continuing the agricultural use and the potential of incompatibility is present. The basic intent of the district is similar to that upon which conditional uses in this Ordinance are promised. This district will grant the uses permitted in the FLP district as well as the uses of the underlying basic district.

SECTION 15(a)1.C. and SECTION 15(a)1.D.

Repeal and recreate Section 15(a)1.C. and 15(a)1.D. to read as follows:

SECTION 15 AD-10 AGRICULTURAL DENSITY-10 DISTRICT

- C. This district encourages the transfer of residential development rights from one area of a parcel to another, from one tract of land to another, and from the RRD-5, the AD-10, HG and C-1 districts thereby allowing the increase in density of development on suitable lands for development in exchange for establishing the preservation of more desirable agriculturally productive lands known as "agricultural preserved lands".
- D. The transfer of development rights may only take place between the RRD-5, the AD-10, C-1 and HG districts, except that only a maximum of 20% of the transferring land zoned C-1 Conservancy may be counted toward the overall density to be provided for the receiving land.

SECTION 15(b)2

Repeal and recreate Section 15(b)2 to read as follows:

2. Only 20% of the C-1 zoned areas may be used when calculating the overall density. Where more than 50% of the site is zoned in the C-1 category, only that amount of acreage up to the 50% amount may be used in the above calculation for purposes of computing allowed density. Where

the calculation results in a fraction of .5 or greater, the density may be "rounded up." This rule shall apply only when a local Land Use Plan has been adopted and specifically addresses the issue of crediting such areas for development purposes.

EXAMPLE: 100 acres - Tract of Land
90 acres - Zoned C-1
10 acres - Zoned AD-10

50% of 90 acres = 45 acres
20% of 45 acres = 9 acres

Total qualifying area considered for density limits = 19 acres.

Number of dwelling units allowed = 1.9 rounded up to 2.

SECTION 15(b)4

Repeal and recreate Section 15(b)4 to read as follows:

4. On a parcel which is zoned AD-10, the development density shall not exceed ten (10) acres for each dwelling unit with credit for the C-1 zoned lands in accordance with 15(b)2.

SECTION 15(f)4.A.i.

Repeal and recreate Section 15(f)4.A.i. to read as follows:

- i. Only 20% of the C-1 zoned areas may be calculated in the overall density. Where more than 50% of the site is zoned in the C-1 category, only that amount of acreage up to the 50% amount may be used in the above calculations for purposes of computing allowed density.

SECTION 15(f)4.B.ii.

Repeal and recreate Section 15(f)4.B.ii. to read as follows:

- ii. Only 20% of the C-1 zoned areas may be calculated in the overall density. Where more than 50% of the site is zoned in the C-1 category, only that amount of acreage up to the 50% amount may be used in the above calculations for purposes of computing allowed densities.

SECTION 16(a)1

Repeal and recreate Section 16(a)1 to read as follows:

SECTION 16 RRD-5 RURAL RESIDENTIAL DENSITY DISTRICT 5

(a) General Regulations: Purpose and intent

1. The purpose of this zoning district is to allow the development of land at densities not greater than one (1) unit for each five (5) acres on all non-prime agricultural areas, in order to encourage the preservation of Prime Agricultural tillable land, (U.S.D.A. Class I and II soils) to discourage residential development on environmentally sensitive areas, provide some marketability for such lands, and to encourage a more economical use of land which is suited to residential development by permitting more intensive use of such lands without changing the overall rural character of the town and the population density of the town as set forth in the adopted Land Use Plan. Further, only 20% of the lands in

the C-1 Conservancy zoning district may be used when calculating the allowable living units.

SECTION 16(b)2

Repeal and recreate Section 16(b)2 to read as follows:

2. The transfer of development rights may only take place between RRD-5, the AD-10, HG High Groundwater and C-1 Conservancy Zoning Districts except that only a maximum of 20% of the transferring land zoned C-1 Conservancy may be counted towards the overall density to be provided for the receiving land. Where more than 50% of the site is zoned in the C-1 category, only that amount of acreage up to the 50% amount may be used in the above calculations for density purposes.

SECTION 16(b)7

Repeal and recreate Section 16(b)7 to read as follows:

7. No building intended in whole or part for residential use shall be erected or relocated unless the lot on which it is located meets the required density factor or has allocated to it through the transfer program, sufficient additional preserved lands to meet the required density factor for the district in which it is located. Where "transferred lands" are to be established, no more than 20% of the total for computation may be in the C-1 Conservancy zoning district and in accordance with 15(b)2 of this Ordinance. Where the total area (or the pro-rated factor) involved includes more than one zoning district, the overall density factor shall apply. In any such case involving the establishment of "preserved lands" approval by the Plan Commission and the Waukesha County Zoning Agency shall be required, pursuant to the criteria and development goals set forth herein.

SECTION 16(f)B.i.

Repeal and recreate Section 16(f)B.i. to read as follows:

- i. They must be developed at no more than a five (5) acre density, taking into account only 20% of any C-1 Conservancy zoned lands. Where more than 50% of the site is zoned C-1, only the amount of acreage up to the 50% amount may be used in the calculation of allowable density.

SECTION 18(a)1

Repeal and recreate Section 18(a)1 to read as follows:

(a) Use regulations: Permitted Uses

1. Any use as permitted in the HG High Groundwater District.

SECTION 18(a)3

Repeal and recreate Section 18(a)3 to read as follows:

3. Agricultural or farm uses on parcels having a minimum of five (5) acres, except one horse shall be allowed on parcels having a minimum of three (3) acres and there may be one (1) additional horse for each additional one (1) acre thereafter. The keeping of hogs, male goats or fur-bearing animals shall not be permitted on less than twenty (20) acres. Those practicing agricultural or farm uses under this section must comply with standard manure disposal practices. The Zoning Administrator, upon recommendation of the Town Plan Commission, may grant a waiver for the

cultivation of lands on parcels smaller than five acres if a determination is made that said use will not negatively affect surrounding property owners.

SECTION 22

Create Section 22 to read as follows:

Section 22 HG HIGH GROUNDWATER DISTRICT

(a) **Purpose and intent**

This district is intended to apply to those lands that are mapped as having hydric soil conditions (depth to groundwater of one foot or less) according to the Soil Survey of Milwaukee and Waukesha Counties published by the USDA Soil Conservation Service. Many of these lands contain wetlands and floodplains and, accordingly, are mapped with a C-1 Conservancy Overlay District designation. Other lands with such soil conditions are presently in agricultural use by virtue of either cultivation, pasture or in some other way, and which if they were not being used for agricultural purposes would be classified as conservancy lands due to inherent wet soil characteristics and the presence of natural vegetation indicative of wet soils.

The intent of the district is to preserve and maintain agricultural or open space uses on lands suited for such purposes. These lands are generally poorly suited for urban or suburban development, while lands outside of wetlands are typically better suited for some type of agricultural use. In this district, structures related to farm operations, including existing dwellings, are deemed consistent with the purpose and intent of this section where the location of buildings associated with the permitted agricultural operation are found to conform with health, sanitation and safety provisions of this and any other state regulation or local ordinance. The intent for mapping purposes is that lands within this district shall have exhibited agricultural uses in the past. It is not the intent of this section to promote or permit the conversion of wetlands. Lands mapped in this district are typically in the Planned "Other Open Lands to be Preserved" or "Environmental Corridor" comprehensive development plan categories.

(b) **Use regulations: Permitted uses**

1. Any uses and structures permitted in the C-1 Conservancy District and if located in a wetland or floodplain, the provisions of Section 7(c)2 must be met.
2. Ordinary farm uses, including dairying, livestock, poultry raising, and truck farming.
3. Accessory uses within buildings normally associated with permitted agricultural operations including existing single-family dwellings, shelters for housing animals, except that no structure shall be located in a floodplain or upon lands not suited due to soil limitations. Any existing structures within floodlands must conform to Section 8 of this Ordinance.
4. Nurseries, commercial greenhouses, and hatcheries limiting the retail sales of such product to that which is produced by the farm operator, subject to review and approval of a Site Plan and Plan of Operation by the plan commission and the Zoning Administrator in accordance with Section 3(c)6 of this Ordinance.
5. Road side stands as outlined in Section 11(d)(2)(E) of this Ordinance.

6. Signs not to exceed forty (40) feet in area displaying the name of the farm or farm organization.
7. Any variance granted for structures located in the floodplain shall meet the floodplain criteria specified in Section 38 of this Ordinance.

(c) **Conditional uses**

Conditional uses as provided in Section 4(g).

(d) **Building location**

1. Road Setback:

- | | |
|-----------------|---|
| A. Residential: | Fifty (50) feet minimum, unless otherwise excepted in this Ordinance. |
| B. Other: | Fifty (50) feet minimum, unless otherwise excepted in this Ordinance. |

2. Offset:

- | | |
|-----------------|--|
| A. Residential: | Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. |
| B. Other: | Twenty (20) feet minimum, unless otherwise excepted in this Ordinance. Buildings that house animals must be fifty (50) feet minimum. |

3. Shore/C-1 Conservancy Setback: Seventy-five (75) feet, unless otherwise excepted in this Ordinance. All accessory buildings must be seventy-five (75) feet minimum.

(e) **Height regulations**

1. Principal building: Thirty-five (35) feet maximum.
2. Accessory building: Twenty (20) feet maximum.
3. Refer to Section 3(i) of this Ordinance for additional height regulations.

(f) **Area regulations**

1. Floor area, minimum required:
 - b. Minimum first floor - nine hundred (900) square feet.
 - c. Total - one thousand one hundred (1,100) square feet.
2. Maximum floor area ratio permitted: Ten (10) percent.

3. Minimum parcel size: Five (5) acres, except that for HG lands that lie within a larger parcel or tract of land, the remainder of which is zoned in any other district, said parcel shall comply with the minimum (gross) parcel size requirement of that non HG district.

(g) **Determination of boundaries**

Where on-site evaluation of soil conditions by a certified soil scientist reveals that soils mapped by the USDA as being hydric are found to be mis-mapped, the lands zoned HG District shall be immediately become subject to the district regulations of the zoning district that is mapped on the balance of the property. If no other zoning district has previously been established on another part of the parcel, the lands shall be zoned as used administratively by the Waukesha County Zoning Administrator. If any such lands are part of an environmental corridor, wetland or floodplain, the respective EC Environmental Corridor District Overlay or C-1 Conservancy Overlay shall continue to apply to said lands.

(Ord. No. 141-44, §§ XLVI, 7-22-1986)

(Section 10(b) was amended by Enrolled Ordinance 163-55, effective 11-13-2008.)

(Section 10(b)4 was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 10(b)7 was amended by Enrolled Ordinance 169-54, effective 10-08-2014.)

(Section 10(c) was amended by Enrolled Ordinance 165-69, effective 12-23-2010.)

(Section 10(e)2, formerly Section 6.05, was amended by Enrolled Ordinance 159-70, effective 12-12-2004.)

(Section 10(f)2 was created by Enrolled Ordinance 165-69, effective 12-23-2010.)

SECTION 38(c)1.B.

Repeal and recreate Section 38(c)1.B. to read as follows:

- B. To hear and decide disputes concerning the C-1 Conservancy or EFD Existing Floodplain Development Overlay District boundaries in regards to floodplains as shown on the official zoning map.
 - i. If the district boundary is established by approximate or detailed floodplain studies approved by the WDNR or FEMA, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 - ii. The person contesting the district boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board; and
 - iii. If a district boundary is incorrectly mapped, the Board should inform the zoning agency, Zoning Administrator, or the person contesting the district boundary location to petition for a map amendment according to Section 39.

EXHIBIT "C"

AGRICULTURAL PRESERVATION – ZONING UPDATE OVERVIEW

Key issues identified by workgroup:

- Vast majority of acreage that is planned for farmland preservation is already zoned as such.
- 35 acre parcel size not entirely effective in preserving farmland.
- Conversion of farm parcels for "estate" use is reducing available farm acreage.
- Workgroup concluded that existing code provisions that require a lot created for a family member to stay within the family in perpetuity is not practical or enforceable.
- Lack of farm consolidation maximum parcel size and non-farm residence maximum parcel size creates possibility for more farmland loss.
- Existing environmental corridor zoning provisions should be revisited in farmland preservation areas.

Existing AP District Standards	Proposed AP District Standards
35 acre minimum farm parcel size	35 acre density requirement
Minimum one acre residential lots (no maximum lot size)	Minimum one acre residential lots (3 acre maximum or 5 acre maximum for farm consolidations)
New lots restricted to family members.	New lots available to family or non-family members.
No lot siting standards (except for lots in wooded Environmental Corridors not allowed in most cases)	Lot siting standards proposed to direct lots to non-cultivated, non-prime soils or wooded areas to extent possible. (Environmental Corridors to become Overlay District with limited development allowed)
*AT District proposed to no longer be certified as a farmland preservation zoning district.	
*"Farm tracking units" mapping proposed to better track available density per farm over time. Land splits since 1997 counted toward available density.	
*Only those lands already planned for farmland preservation will be zoned AP.	

Expected outcomes:

- Continuation of long standing 35 acre density provision which will not reduce the number of lots/units available to farm owners.
- More flexibility for farm owners in being able to create a limited number of parcels for family or non-family members.
- More acreage that is located on parcels planned and zoned for farmland preservation expected to remain in agricultural use long term.
- More farmland potentially attainable to adjacent farm owners looking to expand or to young or new farmers.
- Land owners remain eligible for tax credits.
 - \$5.00/acre for lands with a 15 year agreement within an Agricultural Enterprise Area.
 - \$7.50/acre for lands zoned Farmland Preservation
 - \$10/acre for lands zoned Farmland Preservation with 15 year agreement (within AEA).

Next Steps:

Consider comments received from land owners and towns in drafting text and map amendments.

Submit draft code and map for review by DATCP.

Advance proposed code/map amendments through typical Town and County approval process.