

CHAPTER 17

ZONING CODE

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17.01 INTERPRETATION, PURPOSES AND DEFINITIONS.

- (1) **MINIMUM REQUIREMENTS.** The provisions in this chapter shall be held to be minimum requirements adopted to promote the health, safety, morals, comfort, prosperity and general welfare of the Town.
- (2) **ABROGATION.** It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easement, covenants or agreements between parties or with any rules, regulations or permits previously adopted or issued pursuant to laws provided, however, where this chapter imposes a greater restriction upon the use of buildings or premises or upon the height of a building or requires larger open spaces than are required by other rules, regulations or permits or by easements, covenants or agreements, the provisions of this chapter shall govern.
- (3) **DEFINITIONS.** (Cr. # 1990-1)

ACCESSORY BUILDING. Any building, except the principal building or buildings on a lot. In the case of a house and detached garage on a lot, the accessory building is the garage.

AREA. For purposes of determining minimum area requirements, “area” shall be the square footage of a parcel or lot exclusive of that portion thereof consisting of wetlands, floodplains, ponds, lakes, drainage ways, road rights-of-way and non-utility easements. (Am. 2/2/04)

BLOCK. A group of platted lots that is entirely bounded by a combination or combinations of streets, water bodies, subdivision boundaries or corporate limit lines. Whenever a block is enlarged by succeeding subdivision acts, it shall only constitute one block.

BOARDERS OR ROOMERS. Any person who gets meals and/or a room in a dwelling unit for pay or other consideration.

DUPLEX. A residential building containing 2 dwelling units.

DWELLING. Any building which is wholly or partly used or intended to be used for living or sleeping by human occupants, provided that temporary housing as herein defined shall not be regarded as a dwelling.

DWELLING UNIT. Any room or group of rooms located within a dwelling and forming a single habitable unit with facilities which are used or intended to be used for living, sleeping, cooking and eating.

FAMILY. A person living alone or 2 or more individuals who are related to each other by blood, marriage, adoption or legal guardianship living together as a

single housekeeping unit and using common cooking facilities. For purposes of this chapter, a group of not more than 5 persons not necessarily so related, but living together in a single living unit and using common cooking facilities, shall be considered equivalent to a single family.

FARM. Means all land under common ownership that is primarily devoted to agricultural use. (Cr. 12/29/15)

FARMLAND. Includes all soils classified by the NRCS (Natural Resource Conservation Service) regardless of current or previous use.

FORESTED AREA. A grove of twenty (20) or more naturally-occurring trees that are five (5) inches or larger in trunk diameter when measured four-and-a-half (4.5) feet from the ground.

GARAGE, PRIVATE. An accessory building or space for the storage only of not more than 2 motor driven vehicles.

GARAGE, STORAGE. Any building or premises used for storage only of motor driven vehicles and where no vehicle equipment, parts, fuel or oil are sold and where no vehicle exceeding 2 tons capacity shall be stored.

KENNEL. Any lot or premises on which 4 or more dogs of at least 4 months of age are kept.

LIVESTOCK. Means bovine animals, equine animals, goats, poultry, sheep, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish. (Cr. 12/29/15)

LOT. A parcel of land described in a recorded plat, certified survey map or deed.

MOBILE HOME. That which is or was as originally constructed, designed to be transported by any motor vehicle upon a public highway and designed, equipped and used primarily for sleeping, eating and living quarters or is intended to be so used and includes any additions, attachments, annexes, foundations and appurtenances.

MULTIPLE DWELLING. Any dwelling containing more than one dwelling unit.

NON-FARM BUILDING. A building or structure not used primarily for agriculture purposes, which is not an integral part of the agriculture operation, and does not contribute materially and substantially to the production of income as a result of agricultural use of the land upon which it is located. By way of example, but not otherwise intended to limit the definition, a barn, milking parlor, chicken coop, farrow shed and silo are considered farm buildings or structures. A pole shed used to store property, other than farm machinery used in agricultural production on the premises, or a garage or a dwelling is considered a non-farm

building or structure. (Cr. 8/14/00)

OUTLOT. A parcel of land not to be used for building purposes, so designed on a plat or Certified Survey Map.

PERMANENT STREAM. A waterway shown on the Town of River Falls official "Floodplain and Shoreland Map" that requires a culvert or bridge of twenty-five (25) square feet or larger opening to meet the Town driveway standard 8.02(2)(g) "Access Roads and Driveways over Bridges and Culverts."

PROFESSIONAL HOME OFFICES. Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, professional engineers, registered land surveyors, lawyers, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed one-half the area of only one floor of the residence and only one nonresident person is employed. (Cr. 7/18/94)

ROOMING HOUSE. Any dwelling containing one or more rooming units in which space is let by the owner or operator to 3 or more persons for pay or other consideration. It is intended that cooperatives, communes or other non-chartered groups of people be included under this definition.

ROOMING UNIT. Any room or group of rooms forming a single habitable unit used or intended to be used for living and sleeping, but not for cooking or eating purposes.

RURAL HOME & FAMILY OCCUPATION. A gainful occupation conducted by members of the family only, and including not more than two full time equivalent employees not residents of the parcel, only on their property at which they reside, provided that no article is offered for sale on the property except as is produced by the occupation, or is reasonably related thereto, and that no sign other than one unlighted nameplate no more than six (6) sq. ft. is installed." (Am. 7/18/94) (Am. 8/4/03).

STRUCTURE. Anything constructed or erected having location on the ground.

TEMPORARY HOUSING. Any tent, trailer or other structure used for human shelter which is designed to be transportable and which is not attached to the ground, to another structure or to any utilities system on the same premises for more than 30 consecutive days.

17.02 DISTRICTS.

- (1) ESTABLISHED. (Am. 8/14/00) For the purposes of this chapter, the Town is hereby divided into 6 districts, as follows:

- (a) Residence District (R-1).
 - (b) Residence and Planned Mobile Home Development District (R-2).
 - (c) Farmland Preservation District (A-1).
 - (d) Commercial District (C-1).
 - (e) Industrial District (IND).
 - 1. Light Industry. (LI)
 - 2. Heavy Industrial.
 - (f) Agriculture - Residential District (A-2)
- (2) **BOUNDARIES.** The boundaries of the above districts are hereby established as shown on the entitled, *Zoning Map, Town of River Falls, Pierce County, Wisconsin*, which map is made a part of this chapter. All notations and references shown on the district map are as much a part of this chapter as though specifically described herein.
- (3) **UNSUBDIVIDED PROPERTY.** In unsubdivided property, the district boundary lines shown on the district map shall be determined by use of the scale shown on such map.

17.03 GENERAL PROVISIONS.

- (1) **AIRPORT HEIGHT RESTRICTIONS.** Except as otherwise provided, no building or object of natural growth located within 3 miles of the boundaries of any airport, landing field or landing and takeoff strip shall hereafter be erected, altered or permitted to grow to a height above the elevation of the nearest point on the boundary of such airport, landing field or landing and takeoff strip greater than 1/30 of the distance from such point on such boundary. No overhead power, telephone or telegraph lines shall be erected within 1/2 mile of any boundary of the site of any airport, landing field or landing and take-off strip. No building or land located within 3 miles of the boundary of any airport landing field or landing and takeoff strip, shall be so used that by reason of the emission of smoke, gas or other emanation, it shall produce a hazard to the operation of aircraft. The regulations set forth in this subsection shall not apply to growing field crops which are harvested at least once a year nor to fences not over 5' high.
- (2) **USES, HEIGHT AND AREA.** Except as otherwise provided:

- (a) The use and height of buildings hereafter erected, converted, enlarged or structurally altered and the use of any land shall be in compliance with the regulations established herein for the district in which such land or building is located.
 - (b) No building or other structure shall be erected on any parcel of land smaller than a parcel of land as defined herein. For purposes of this chapter, a lot is defined as any single piece or parcel of land constituting at least 2 acres of land, exclusive of that portion of the parcel used for roadways and streets. No lot area shall be reduced so that the yards and open spaces are smaller than is required by this chapter nor shall the density of the population be increased in any manner, except in conformity with the area regulations hereby established for the district in which a building or premises is located.
 - (c) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this chapter shall be included as a part of a yard or other open space required for another building.
 - (d) Every building hereafter erected, converted, enlarged or structurally altered shall be located on a lot and in no case shall there be more than one main building containing a dwelling or dwelling units on one lot.
- (3) NONCONFORMING USES.
- (a) The existing lawful use of a building or premises at the time of the enactment of this chapter or any amendment thereto may be continued although such use does not conform with the provisions of this chapter for the district in which it is located, but such nonconforming use shall not be extended.
 - (b) If no structural alterations are made, a nonconforming use of a building may be changed to another nonconforming use of the same or a more restricted classification. Whenever a nonconforming use has been changed to a more restricted nonconforming use or a conforming use, such use shall not thereafter be changed to a less restricted use.
 - (c) If a nonconforming use of a building or premises is discontinued for a period of 12 months, any future use of the building or premises shall conform to the regulation for the district in which it is located.
 - (d) When a building containing a nonconforming use is damaged by fire, explosion, act of God or the public enemy to the extent of more than 50% of its current local assessed value, it shall not be restored except in conformity with the regulations of the district in which it is located. The total structural repairs or alterations in any nonconforming use shall not during its life exceed 50% of the local assessed value of the building at the time of its becoming a nonconforming use unless permanently changed to a conforming use.

- (e) Nothing herein contained shall require any change in the plans, construction size or designated use of any building or part thereof for which a building permit has been issued before the effective date of this chapter and the construction of which shall have been started within 6 months from the date of such permit.
- (f) In any commercial or industrial district, wherever a lot abuts upon a public or private alley, sufficient space for the loading or unloading of vehicles shall be provided on the lot in connection with any commercial or industrial use so that the alley shall at all times be free and unobstructed to the passage of traffic.
- (g) All theaters, arenas, auditoriums, churches or other places of public gathering hereafter erected, except such as are rebuilt on the sites occupied at the time of the adoption of this chapter, shall provide an accessible parking space of sufficient size to accommodate at least one car for every 5 seats provided.
- (h) Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the 2 districts which abut the district boundary line.
- (i) When a housing project consisting of a group of 2 or more buildings is to be constructed on a site not subdivided into customary lots and streets or where an existing lot and street layout make it impractical to apply the requirements of this chapter to the individual building units, the Town Board may approve a development plan provided it complies with the regulations of this chapter as applied to the whole plat.

17.03(4) CONDITIONAL USES (Cr. 10/17/05)

- (1) **APPLICATION.** Application for conditional use permits shall be submitted to the Zoning Administrator on forms provided and shall be accompanied by a plan showing the location, size and shape of the lot(s) involved and of any proposed structures, and the existing and proposed use of each structure and lot. The cost of conditional use permits shall be established from time to time by the Town Board. In addition to the application fee the applicant shall pay all legal and engineering fees incurred by the Town in connection with review and issuance of the permit (excluding administrative fees and the cost of publication and special meeting per diem fees, same being included in the application fee). These fees shall be paid in advance to the Town Clerk as estimated by the Zoning Administrator. No permit shall be issued until all such costs and fees have been paid.
- (2) **REVIEW.** In all cases where a conditional use is proposed, the Plan Commission shall review the site, existing and proposed structures, architectural plans,

neighboring, uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and other aspects of the proposed use.

- (3) **STANDARDS.** No permit for a conditional use shall be granted unless the Town Board, following recommendation of the Plan Commission, shall find that the following conditions are present:
 - (a) That the establishment, maintenance, or operation of the conditional use will not be detrimental to or endanger the public health, safety, morals, comfort or general welfare.
 - (b) That the uses, values and enjoyment of other property in the neighborhood used for purposes already permitted shall be in no foreseeable manner substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
 - (c) That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
 - (d) That adequate utilities, access roads, drainage, and other necessary site improvements have been or are being provided.
 - (e) That adequate measures have been or will be taken to provide ingress or egress so designed as to minimize traffic congestion and traffic hazards in the public streets.
- (4) **CONDITIONS AND GUARANTEES.** Prior to granting a permit for a conditional use, the Town Board may stipulate such conditions and restrictions upon the establishment, maintenance and operation of the conditional use as it may find necessary to promote the public health, safety and general welfare of the community, and to secure compliance with the standards specified in 17.03(4)(c) above. Establishment, maintenance and operation shall be construed to include, but shall not be limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, sureties, lighting, fencing, operational control, hours of operation, traffic circulation, deed restrictions, access restrictions, yard and parking requirements, insofar as the Town Board shall find same are necessary or desirable to fulfill the purpose and intent of this chapter. The Board may also increase the required set-back and side yards; impose specifications concerning disposal of liquid or solid waste; impose natural or artificial screening requirements; require sureties; restrict or designate hours of operation; impose operational controls and regulations; require certain reclamation measures; require performance bonds and sureties; and, impose special inspection requirements. The Board may assess the applicant additional fees to offset the cost of administration, monitoring and enforcing restrictions and conditions imposed. The Board may consider past and present history of the

applicant, in this Town and elsewhere, in connection with related and unrelated activities, in determining whether the application shall be granted. In all cases where a permit for conditional use is granted, the Town Board shall require such evidence and guarantees as it may deem necessary to ensure the conditions stipulated in connection therewith are being and will be complied with.

- (5) COMPLIANCE. Conditional uses shall comply with all other provisions of this chapter including lot width and area, yards, height, parking and loading.
- (6) PERMIT ISSUANCE. The Town Board may authorize the Zoning Administrator to issue a conditional use permit after review and public hearing, provided such uses are in accordance with the purpose and intent of this chapter. Such permit shall be issued to a specific person, partnership or corporation for a specific property, and only for the uses stated in the permit. The conditional use permit shall terminate upon sale of the property or business for which it was issued, and may not be transferred to another person or location without a new application, review, and public hearing.
- (7) TIME PERIOD. A conditional use permit shall allow the recipient to use the subject premises or structure in the manner conditionally permitted for such period as the Town Board may deem appropriate. The period may be indefinite, subject to such periodic review as the Town Board may in its discretion deem appropriate.
- (8) REVIEW OF CONDITIONAL USES. The Zoning Administrator shall from time to time conduct a review of the conditional use to insure all conditions set by the conditional use permit are being met. Failure at any time by the permittee to adhere to the conditions set forth in the permit may result in a public hearing to determine whether the conditional use permit should be modified or cancelled.
- (9) RESUBMISSION. No application for a conditional use which has been denied wholly or in part by the Town Board shall be resubmitted for a period of one year from the date of said denial, except where substantial new evidence or proof of compliance with applicable conditions is demonstrated.
- (10) USES. In addition to the conditional uses permitted under the districts established under this Chapter, conditional uses may be granted in the following districts for the following specified uses:
 - (a) Agricultural Residential District: A commercial use.
 - (b) Commercial District: An agricultural, residential, or industrial use.
 - (c) Light Industrial District: A residential, commercial or agricultural use.”

17.03(5) CONDITIONAL USE PERMITS. The Town Board, after investigation and

public hearing by the Plan Commission, in addition to the uses which may be permitted under Section 17.065(6) may authorize the location of the uses specified herein in the districts specified, from which they would otherwise be excluded, provided the Town Board shall find the proposed location is appropriate or necessary in order to serve the public health safety, convenience or general welfare, and provided each such structure or use shall comply with all other regulations for the district in which it is proposed to be located. The Town Board may attach reasonable conditions and safeguards to the Conditional Use Permit in order to protect the value of neighboring buildings or uses.

- (1) **PUBLIC AND SEMIPUBLIC USES.** The following conditional uses may be permitted:
 - (a) Government and cultural uses such as administrative offices, fire and police stations, community centers, libraries, public emergency shelters, parks, playgrounds and museums in all residential and business districts.
 - (b) Utilities in all districts provided all principal structures and uses are not less than fifty (50) feet from any residential district lot line, and all utility structures are enclosed by a protection fence at least 8 feet high.
 - (c) Public, parochial, private, preschool, elementary and secondary schools and churches in all residential, commercial and agricultural districts.
 - (d) Hospitals and cemeteries in the Ag-residential districts provided all principal structures are not less than twenty five (25) feet from any lot line.
 - (e) Cemeteries in the Exclusive Ag district.
- (2) **APPLICATION FOR CONDITIONAL USE PERMIT.** The application for conditional use permit shall be filed with the Zoning Administrator. The matter shall thereupon be referred to the Plan Commission for public hearing and recommendation. The Town Board shall consider the recommendation of the Plan Commission before acting upon the application. The hearing before the Board and Plan Commission shall be preceded by the notice required under §17.10. The Zoning Administrator or Plan Commission may request the Town Engineer review any conditional permit application or, after a permit has been issued, to review the conditional use to determine compliance with the conditions under which it was issued.

17.035 SITE PLAN APPROVAL (Cr. 11/18/96; Rn. 6/16/97; Rn. 7/21/03)

- (1) **SITE PLAN REVIEW.**
 - (a) A prerequisite for issuance of a permit for new construction or additions to existing structures and buildings for commercial, industrial, institutional government buildings, churches, clubs, schools or multi-family uses is the

approval of a site plan, as set forth below. The purpose of such approval is to assure site designs which are harmonious with neighboring tracts, creates safe and attractive site layouts and structures, provides proper access to streets and transportation and contributes to effective land use in the Town of River Falls.

- (b) The Plan Commission shall review, with regard to the proposed operation, the existing site, proposed structures, architectural plans, neighboring uses, use of landscaping and open space, parking areas, driveway location, loading and unloading areas, highway access, traffic patterns, lighting, drainage and water and sewer systems.
- (c) Upon completion of the review of the site plan, the Plan Commission will make its recommendation to the Town Board. The Town Board has final approval authority for all site plans.

(2) PROFESSIONAL FEES & DISBURSEMENTS.

- (a) The applicant for any permit shall pay a fee to the Town Clerk equal to the actual costs to the Town for the professional fees and disbursements incurred by the Town by reason of the review of the application and proposed use and improvements by any professional employees and consultants, including without limitation by way of enumeration, the planner, engineer, surveyor, attorney and any other professional employees or consultants hired by the Town with respect to consideration thereof. This shall include, without limitation by way of enumeration, the following:
 - 1. Review of such application and proposed use and improvements and the plans therefor.
 - 2. Inspection of the site and the improvements as and after such improvements are constructed.
 - 3. Tests and other evaluations deemed necessary by such professional employees and consultants for their review and inspection.
 - 4. Drafting or other preparation of any written opinions, advice and suggestions with respect thereto.
 - 5. Drafting and preparation of any ordinances, resolutions, contracts, agreements and other documents with respect thereto.
 - 6. Attendance at public meetings or hearings and telephone and actual conferences.
 - 7. Any other professional services and disbursements charged to the Town which were necessitated by the submission and review of such application and proposed use and improvements, and construction of improvements

and erosion and sediment control measures therein.

(b) At or prior to submission of any application for a permit that involves new construction or an addition to an existing building or other structure, the applicant or the applicant's representative shall deposit in escrow with the Town Clerk the amount specified. Such specified fees will be set by the Town Board from time to time. If the sum determined herein is inadequate or excessive for anticipated expenses, the Town Board may increase or decrease the required deposit at any time. Additionally, the Town may waive all or part of the required escrow deposit to the extent that a determination on the application will probably not include any of the employees, experts or tests necessary to make a determination on the application. Should the Town Board thereafter determine that a greater escrow deposit is required up to the amount required under this section, the applicant must pay the additional amount to the Town Clerk within the time specified. Notice of the meeting for consideration of the application shall be mailed to the applicant or applicant's agent at least 5 days prior thereto. Upon final action on the application, approval of all improvements and erosion and sediment control measures required therein and payment of all professional expenses incurred by the Town, any balance in escrow shall be returned to the applicant. This shall not prohibit the Town collecting any additional professional expenses subsequently charged to the Town. The Town Board may agree in writing with the owner of any premises generally leased to tenants to require less than the foregoing escrow deposit from an existing or prospective tenant if such owner in writing personally guarantees and provides satisfactory surety for payment of any sums then or thereafter due to the Town which could have been collected from a higher escrow deposit by such tenant.

(3) SITE PLAN REQUIREMENTS. All site plan applications shall include:

(a) Identification:

1. Name of project.
2. Owner's and, where appropriate, developer's name, address and telephone number.
3. Architect and/or engineer's name, address and telephone number.
4. Address of project.
5. Date site plan was prepared.

(b) Graphic Representation:

1. Three copies of the site plan shall be submitted.

2. Site plan scale shall be no less than 20 feet to the inch and show date, north arrow and graphic scale.

(c) Site Plan Information:

1. Lot boundaries, including legal description, and required setback distances.
2. Location of all public and private roads, official map showing streets and easements.
3. Location of all water courses, drainage ditches, wet lands, flood plains, and required setback.
4. Location of all existing and proposed public and private utilities, wells, drainage structures and lighting.
5. Existing and proposed structures and buildings, structures to be removed, description of proposed use of all structures and their dimensions.
6. Floor plans and elevations, including dimensions; and exterior plans showing the design and character of each structure and building.
7. Traffic aspects (flow, volume, type, etc.) of existing and proposed driveways and parking lots, including parking stall sizes and layout, handicap stalls and ramps, loading zones, driveway widths and traffic direction, sidewalks and pedestrian walkways and similar improvements.
8. Existing and proposed vegetation, areas of permanent open space, landscaping, fences, ground cover, areas of filling and grading in excess of 6 “ and contours.
9. Location of signs. (See §17.13)
10. Detailed Construction schedule and construction phases. The Town Board may impose time schedules for completion of (including, but not limited to) buildings, parking areas, dedication of open space use areas, drainage and erosion control systems and landscaping of the site (including open space use areas) and shall conform to Chapter 21, Storm Water Management.
11. Other pertinent information as may be requested by the Plan Commission during review of the site plan. Items from this list of required information may be waived by the Plan Commission. Waiver requests must be made in writing and include reasons therefore.
12. Site plans prepared by Architects or Engineers should be sealed and

signed by the Architect or Engineer.

13. The site plan should indicate the zoning of the property include in the site plan and the NRCS (SCS) soil types present on the site.

(4) **SITE PLAN REVIEW AND FINDINGS.** The Plan Commission shall review the site plan following submittal of all plan materials as required in 17.035(3) and upon payment of the fee pursuant to 17.35(2). The Plan Commission may recommend approval with such written conditions as it deems appropriate. If the Plan Commission or the Town Board rejects the site plan, a written summary of the objections shall be communicated to the applicant(s) who shall then have an opportunity to respond and amend the site plan. The Plan Commission shall not recommend a site plan for approval to the Town Board until the Plan Commission has determined the proposed site plan is in conformance with the intent and purpose of this chapter and is deemed to satisfactorily address the following:

(a) The relationship of the site plan to the land use plans and policies adopted by the Town of River Falls.

(b) Parking, loading, traffic generation and traffic flow layout so as to:

1. Minimize hazardous traffic movements.

2. Achieve efficient traffic flow in accordance with standards in the Institute of Traffic Engineers' Transportation and Traffic Engineering Handbook.

3. Provide for optimum number of parking spaces.

4. Provide for optimum loading and unloading in the case of commercial and industrial use.

5. Provide for optimum access to public streets and highways.

6. Provide for pedestrian safety

7. Provide for public roads. (See §8.01)

8. Comply with all sections in this General Code for the Town of River Falls.

(c) Provisions for surface and subsurface drainage, including drainage connections, are to be done in such a manner that existing drainage serving the area is not overloaded, as an overload could increase the danger of erosion, flooding, landslide, or other endangerment of adjacent or surrounding property and shall comply to Chapter 21, Storm Water Management.

(d) The use of landscaping so as to:

1. Maintain existing mature trees and shrubs to the maximum extent practical.
 2. Buffer adjacent uses where appropriate to minimize impact on neighboring uses.
 3. Screen unsightly activities from public view.
 4. Break up large expanses of asphalt and buildings with plant material.
 5. Provide a landscaping design that is in harmony with the surroundings.
 6. Make optimum use of open spaces.
 7. Provide plant materials and landscaping designs suitable to the climate.
- (e) Location of principal structure(s), accessory structure(s), lighting, free-standing signs, refuse container(s), mechanical equipment, etc., so placement:
1. does not impede safe and efficient traffic flow,
 2. adversely impact the development of adjacent property or the character of surrounding neighborhood, and
 3. creates an attractive grouping, spacing and placement of buildings, structures, lighting, etc. in relation to the site and its environs.
- (f) Reference or standards for size of trees, shrubs, buffer islands etc. shall be set forth from recommendations by a soil conservation forester or other state or local agency.
- (g) The architectural character of the project construction materials and colors, are to be such that they are appropriate to the intended use, and compatible with surrounding buildings and uses.
- (h) The operations of the proposed use to avoid negative activity effect on adjacent properties.
- (5) SURETIES. The Town Board shall require appropriate sureties, including but not limited to cash bonds, performance bonds and letters of credit to guarantee conditions and requirements will be completed on schedule. Such sureties shall equal 100% of the value of the finished project. Each day where failure to complete required improvements within the specified time limit for the respective improvement, shall constitute a separate violation.
- (6) REVIEW SCHEDULE.

- (a) No later than 90 days after receipt by the Town Board of a site plan and the appropriate fee, the Plan Commission shall:
 1. Recommend the site plan to the Town Board,
 2. Request additional information, in writing, from the applicant [see 17.035(3)(c)11.]
 3. Recommend the site plan contingent upon incorporation of conditions enumerated by the Plan Commission, or
 4. Recommend rejection stating their reasons.
- (b) No later than 90 days after the receipt of any additional information requested from the applicant [see 17.035(3)(c)11.], the Plan Commission shall:
 1. Recommend the site plan to the Town Board,
 2. Recommend the site plan contingent upon incorporation of conditions enumerated by the Plan Commission, or
 3. Reject the site plan in writing [see 17.035(4)].
- (c) No later than 60 days after receiving an amended site plan, where the site plan had initially been rejected [see 17.035(4)], the Plan Commission shall:
 1. Recommend the site plan to the Town Board,
 2. Recommend the site plan contingent upon incorporation of conditions enumerated by the Plan Commission, or,
 3. Reject the site plan in writing [see 17.035(4)].
- (d) No later than 45 days after a site plan has been forwarded to the Town Board from the Plan Commission for final action [see 17.035(4)], the Town Board shall:
 1. Approve the site plan,
 2. Approve the site plan with incorporated conditions, or
 3. Reject the site plan in writing.
- (7) APPEALS. Any person or persons aggrieved by any decision of the Town Board related to site plan review may appeal the decision to the Board of Appeals. Such appeal shall be filed with the Board of Appeals within 30 days of the decision of the Town Board.

17.038 TOWERS (Am. 12/29/15)

(1) PURPOSE. It is the intent of this Section to:

- (a) Balance the rights of private property owners with the needs of the Town of River Falls community-at-large.
- (b) Mitigate and address the potentially adverse effects of communication towers on human health and safety.

(2) DEFINITIONS.

ANTENNA. Any structure or device used for the purpose of collecting or transmitting electromagnetic waves, including but not limited to directional antennas, such as panels, microwave dishes, and satellite dishes, and omni-directional antennas, such as whip antennas.

BUILDING CODE. The most recently adopted or amended Town of River Falls Building Code.

COMMUNICATION TOWER. A structure that is used primarily as a communication antenna or as a communications antenna support structure.

EFFECTIVE TOWER HEIGHT. The distance from the highest point of rigid, non-guyed support to the top of the highest appurtenance mounted on the tower.

ANSI/TIA-222G. Electronics Industries Association Standard 222-G, "Structural Standards for Steel Antenna Towers and Antenna Support Structures."

FAA. The Federal Aviation Administration.

FCC. The Federal Communications Commission.

FREE STANDING TOWER. A tower which has the tower base as the only or primary means of resisting the designed tower loads.

GUY SUPPORTED TOWER. Means a tower which requires the use of flexible guying cables or wires as the only or principle means of resisting the designed tower loads.

COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES. Licensed commercial wireless telecommunication services including cellular, personal communication services (PCS), specialized mobilized radio (ESMR), enhanced specialized mobilized radio (ESMR), paging, and similar services that are marketed to the general public.

NON-COMMERCIAL COMMUNICATIONS TOWER. A tower used for purposes in which there is no commercial gain, i.e. amateur radio, Civil Air Patrol, Red Cross, etc.

TOWER. Any ground or roof mounted pole, spire, structure, or combination thereof taller than 15 feet, including supporting lines, cables, wires, braces, and masts, intended primarily for the purpose of mounting an antenna, meteorological device, or similar apparatus above grade.

TOWER HEIGHT. The distance between the ground upon which the tower or tower base sits and the top of the highest appurtenance mounted on the tower.

TOWER, MULTI-USER. A tower to which is attached the antennas of more than one commercial wireless telecommunication service provider or governmental entity.

TOWER, SINGLE-USER. A tower to which is attached only the antennas of a single user, although the tower may be designed to accommodate the antennas of multiple users as required in this Code.

WCSF. Wireless Communications Service Facility.

- (3) TOWER ZONING APPLICATIONS. A building permit and land use permit shall be obtained prior to construction of any tower, including a communication tower. Towers shall be registered with the Town at the time the permit is obtained. Each application for a permit shall include the following information, supplied by the tower owner, operator, or contractor installing the tower.
- (4) PROCEDURE.
 - (a) The application for siting and construction of a Wireless Communications Service Facility (WCSF) shall include:
 1. Name and business address of, and the contact individual for, the applicant;
 2. The location of the proposed or affected support structure;
 3. The location of the proposed mobile service facility;
 4. A construction plan which describes the mobile service support structure and the equipment and network components including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure;

5. An explanation as to why the applicant chose the proposed location and why the applicant did not choose colocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that colocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity, is technically infeasible or is economically burdensome to the mobile service provider.;
- (b) The application for a substantial modification of an existing WCSF shall include:
1. The name and business address of, and the contact individual for, the applicant;
 2. The location of the proposed or affected support structure;
 3. The location of the proposed mobile service facility;
 4. A construction plan which describes the proposed modifications to the support structure and the equipment and network components including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- (5) **APPLICATION FEES.** The Town requires an application fee, of an amount set by the Town Board from time to time, for the registration, processing, and permitting of communication towers and wind generator towers. No application shall be considered filed with the Town unless and until said application is accompanied by the fee. Maximum fee shall not exceed the amount specified in §66.0404, Wi Stats.
- (6) **TOWER CONSTRUCTION.** Plans and specifications for the tower design as specified by the tower manufacturer or as approved by a registered professional engineer experienced in the design and/or analysis of towers shall be submitted to the Town Board by the tower owner, operator, or contractor installing the tower.
- (7) **TOWER DESIGN REQUIREMENTS.** Proposed or modified towers and antennas shall meet the following design requirements.
- (a) Towers and antennas may be designed to blend into the surrounding environment through the use of color and camouflaging architectural treatment, except in instances where the color is dictated by federal or state authorities.
- (8) **TOWER SET BACK REQUIREMENTS.** Towers shall conform with all of the following minimum setback requirements:

(a) Yards (minimum):

1. Front, see setbacks from highway and navigable water regulations,
2. Rear, 40 ft. where adjacent to R zone, 10 ft. otherwise,
3. Side, 20 ft. except that any side yard abutting on R-1, R-2, A-1, or A-2 Districts shall be 40 ft.

(9) EXCLUSIONS.

- (a) Communication towers less than 190 feet in height and designed and intended for private noncommercial use shall be exempt from the requirements of this Section.
- (b) Any communication tower erected before enactment of this ordinance.
- (c) The Board, at its discretion, may exempt certain communication towers that are designed for and intended to be used solely by public safety or emergency communications agencies.

(10) TOWER LIABILITY. Prior to granting a tower zoning permit, the applicant will demonstrate proof to the Town Board that it has adequate liability insurance for the communication tower, support structures, and any and all easements or non-public access roads. The liability insurance will cover accidents within the boundaries of the tower as shown on the site plan, personnel falls from the tower (whether employees or agents of the applicant or not), and private property damage caused by the tower, or debris from the tower.

(11) TOWER INSPECTIONS.

- (a) Towers shall be inspected in accordance with FCC or other applicable directives.
- (b) Inspection records shall be kept by the tower owner and made available upon request to the Town Board.
- (c) The Town Board may, at its discretion or upon complaint, inspect or require the inspection of any tower within its jurisdiction at the tower owner's or operator's cost.

(12) SECURITY.

- (a) Eight (8) feet high security fencing shall be required around the base of the tower.

- (b) Accessory or equipment buildings installed as part of the tower facility shall be secured.

(13) ACCESS ROADS.

- (a) Access roads shall be constructed so as to meet the following requirements:
 1. Access road construction plans shall be designed to minimize adverse environmental impact.
 2. The access road shall be constructed so as to minimize soil erosion.
 3. Access roads shall be designed and routed to so as to minimize the loss of agricultural crop land.
 4. No communication tower access road shall cross or otherwise be sited on, in, or within 10 feet of wetlands or rivers.
- (b) Communication tower access roads must conform to the Town of River Falls driveway ordinance.
- (c) Communication tower access roads are subject to all provisions contained in the Town of River Falls Land Use Plan.

(14) SIGNS AND ADVERTISING.

- (a) Appropriate signage shall be posted indicating that trespassing and/or vandalism to the property may be punishable under local, state, or federal statutes.
- (b) The use of any portion of a tower for signs other than warning or equipment information signs is prohibited.

(15) ACCESSORY BUILDINGS.

- (a) All utility buildings and structures accessory to a tower shall be designed to blend in with the surrounding environment and shall meet the minimum setback requirements of the underlying zoning district.
- (b) Ground mounted equipment shall be screened from view by suitable vegetation, except where a design of non-vegetative screening better reflects and complements the architectural character of the surrounding area or neighborhood. Screening with natural vegetation or fencing, as approved by the Plan Commission, shall be provided along property lines bordering R-1, R-2, A-1, A-2, or C-1 Districts.

(16) STRUCTURALLY UNSAFE OR UNUSED TOWERS.

- (a) Any tower found to be structurally unsafe and that cannot be brought into compliance within 180 days must be removed at the owner's expense.
- (b) Any tower that is no longer used and maintained as a communication tower for a period of one (1) year shall be removed at the owner's or property owner's expense.

(17) TOWER REMOVAL.

- (a) In addition to subsection (15) the applicant shall be responsible for removing the tower when either:
 - 1. the tower has reached the end of its useful life, or
 - 2. the tower is classified as structurally unsafe or unused.
- (b) If a tower is located on public land, the applicant will be required to post a bond or establish an escrow account that is equal to ten (10) percent of the tower's construction cost, not to exceed \$20,000, to protect the Town's interest in the event the owner fails to remove the tower in a timely manner when required to do so. In the event the owner does not timely remove the tower the Town may do so and charge the cost thereof against the bond posted and any balance due shall be assessed against the premises as a special charge and placed on the tax roll.
- (c) If the tower is located on public land, or if is located in plain site of public roads or residential areas, the applicant shall be required to restore the tower site to its original condition. This includes the removal of the tower, tower support equipment, accessory buildings, security fences and all other equipment and structures. The applicant is also required to restore or replant native vegetation at the tower site and along the access road.
- (d) In the event that the tower applicant fails to restore the land to its pre-tower condition to the satisfaction of the Town Board, the applicant shall forfeit its tower removal bond or escrow account.

(18) LANDSCAPING AND SCREENING.

- (a) On site vegetation shall be preserved to the maximum extent practical.
- (b) Screening with natural vegetation or fencing, as approved by the Plan Commission, shall be provided along property lines bordering R-1, R-2, A-1, A-2, or C-1 Districts.

(19) PERIODIC REVIEW.

- (a) The Town Board reserves the right to review the status of the tower every two (2) years. The review shall consider the following:
1. Compliance with a land use permit;
 2. If the Town has reason to believe that an existing WCSF is a safety risk, it may require that a registered engineer perform an inspection and that a copy of the inspection results be provided within 60 days.
 3. Owners/providers/permittees shall submit annually on or before January 31 of each year a telecommunications facility annual information report. The report shall include the WCSF owner's name, address(s), phone number(s) contact person(s), legal description of the location of WCSF, tower height, current occupancy, and other information deemed necessary the by Zoning Administrator. Failure to provide this information shall result in a civil forfeiture of \$200 per day until the report is received..

(20) PUBLIC NOTIFICATION OF TOWER APPLICATION.

- (a) Upon receipt of a communication tower application, the Town Board shall hold a public hearing on the application at the next scheduled regular board meeting, but no less than thirty (30) days thereafter. Where a special meeting is required to comply with these time limits the applicant shall pay the cost thereof in advance.
- (b) The Town Clerk will notify all residents and businesses within a one-quarter mile radius of the reason for the public hearing and the notification shall take place at least 30 days prior to the scheduled meeting date.

(21) TOWN BOARD EVALUATION CRITERIA.

- (a) The Board in its review of the tower application shall consider the following factors associated with the construction of a new tower in the Town:
1. Health and safety issues;
 2. Economic impact on the local community;
 3. Review of information on why this particular location was chosen and why collocation wasn't chosen as required by §66.0404(2)(b), Wi Stats.

(22) APPLICABILITY.

- (a) This section supersedes all other communication tower ordinances.
- (b) This section supersedes all other State and County communication tower regulations except where noted or where such other regulations have legal precedence.
- (c) This section complies with the requirements of Wisconsin state statute 66.0404.

17.04 RESIDENCE DISTRICT (R-1).

- (1) USE. In the R-1 District no building or premises shall be used and no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:
 - (a) Dwelling
 - (b) Churches, schools, libraries, municipal buildings, public recreational and community center buildings and grounds, cemeteries, truck gardening, nurseries, greenhouses, accessory buildings, private garages and professional home offices as defined in Section 17.065(2)(b)1 and 2. No mobile homes or mobile home developments shall be permitted in this district. (Am. 8/7/00)
- (2) SETBACK. Unless otherwise provided, there shall be a setback line of not less than 75 ft. Such setback line shall be the minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, including uncovered steps.

17.05 RESIDENCE AND PLANNED MOBILE HOME DEVELOPMENT DISTRICT (R-2).

In the R-2 District no building or premises shall be used and no building shall hereafter be erected or structurally altered, except for one or more of the following uses:

- (1) Any use permitted in the R-1 District.
- (2) A planned mobile home development district for which a permit has been issued under §12.05 of this General Code. Location of mobile homes in a planned mobile home development and setback therein shall be governed by the provisions of §12.05.

17.055 RIGHT TO FARM (Cr. 4/17/06)

- (1) PURPOSE AND AUTHORITY. It is the declared policy of the Town of River Falls to conserve and protect agricultural land and to encourage agricultural use within the Township. Where non-agricultural land uses, including but not limited

to residential development, extend into or adjoin areas of agricultural land, agricultural users have become the subject of nuisance complaints. As a result, agricultural uses could sometimes be forced to curtail or cease operations, and users therefore discouraged from making investments in farm improvements to the detriment of the economic viability of the Town's agricultural industry as a whole. It is the purpose and intent of this Section to reduce the loss to the Township of its agricultural resources by limiting circumstances under which agricultural uses may be considered a nuisance. This Section is not to be construed as in any way modifying or abridging State law relative to nuisances, but is to be utilized in the interpretation and enforcement of the provisions of this Code and other applicable Town regulations. The Statutory Authority of the Town to enact these regulations was established by Sec. 823.08, Stats., Actions Against Agricultural Uses. The Legislature believes that local units of government, through the exercise of their zoning power, can best prevent such conflicts from arising in the future and the legislature urges local units of government to use their zoning power accordingly.

(2) DEFINITIONS.

- (a) AGRICULTURAL LAND means those lands of the Town which are zoned as A-1 (Exclusive Agriculture) or A-2 (Agriculture Residential).
- (b) AGRICULTURAL USE means beekeeping; commercial feedlots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payment in kind; owning land, at least 35 acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk production termination program under 7 USC 1446(d); and vegetable raising.
- (c) OWNER means a resident of this state owning land and includes an individual, legal guardian, corporation incorporated in this state, business trust, estate, trust, limited liability company, partnership or association or 2 or more persons having a joint or common interest in the land. However, where land is subject to a land contract, it means the vendor in agreement with the vendee.
- (d) USE CONSISTENT WITH AGRICULTURAL USE means any activity that meets all of the following conditions:
 - 1. The activity will not convert land that has been devoted primarily to agricultural use.
 - 2. The activity will not limit the surrounding land's potential for agricultural

use.

3. The activity will not conflict with agricultural operations on the land subject to a farmland preservation agreement.
4. The activity will not conflict with agricultural operations on other properties.

(e) AGRICULTURAL PRACTICE means any activity associated with an agricultural use.

(3) NUISANCE.

(a) An Agricultural use or an agricultural practice may not be found to be a nuisance if all of the following apply:

1. The agricultural use or agricultural practice alleged to be a nuisance is conducted on, or on a public right-of-way adjacent to, land that was in agricultural uses without substantial interruption before the plaintiff began the use of property that the plaintiff alleges was interfered with by the agricultural use or agricultural practice.
2. The agricultural use or agricultural practice does not present a substantial threat to public health or safety.

(b) The provisions of this subsection apply without regard to whether a change in agricultural use or agricultural practice is alleged to have contributed to the nuisance.

(c) No present or future agricultural use or any of its appurtenances (any equipment, such as tools or instruments used for a specific purpose or task) conducted or maintained for commercial, private or public purposes and in a manner consistent with proper and accepted customs and standards of the agricultural industry on agricultural land shall become or be a nuisance, private or public, due to any changed condition of the use of adjacent land in or about the locality thereof, provided that the provisions of this Section shall not apply whenever a nuisance results from the negligent or improper operation of any such agricultural use and its appurtenances of the agricultural activity or appurtenances obstruct the free passage or use in the customary manner of any navigable lake, stream, river, canal or business or any public park, square, street or highway.

(4) ROLE OF THE ZONING ADMINISTRATOR.

(a) Anyone may submit a written request to the Zoning Administrator to determine whether a particular agricultural use constitutes a nuisance. In the event a dispute arises between the farm owner (or operator) and a resident, (or

residents) in or about the locality thereof, as to whether a particular agricultural use constitutes a nuisance, an interested party(s) may submit a written request for issuance of an advisory opinion or to mediate a dispute. The request shall be made to the Zoning Administrator in writing. Upon receiving the request, the Zoning Administrator shall provide a copy of the complaint to the subject of the complaint. The subject of the complaint shall have 20 days to answer, in writing, a response to the allegation to the Zoning Administrator. After review of the complainant's comments and the responsive answer, the Zoning Administrator may call upon professional or educational agriculture personnel as technical advisor(s) to evaluate the dispute. The Zoning Administrator's written opinion on the agricultural practice shall be forwarded to the farm owner (or operator), the complainant, the Plan Commission, the Town Board and any other individuals deemed appropriate by the Zoning Administrator, within 60 days of the date of the original written request.

- (b) Any person aggrieved by any decision of the Zoning Administrator regarding agricultural practices may appeal the decision to the Plan Commission within 30 days of receipt of the Zoning Administrator's final determination.
 - 1. The decision of the Plan Commission shall be considered a final administrative agency decision.
 - 2. If the Zoning Administrator's decision is not appealed with 30 days the Zoning Administrator's decision shall be binding.
 - 3. All costs associated with such opinions shall be borne by the party submitting the request and any cost for appeal.

17.06 FARMLAND PRESERVATION DISTRICT (A-1). (Cr. #1990-1, Am. 12/29/15)

- (1) INTENT. The intent of the A-1 District is to preserve the more productive agricultural soils in larger tracts to maintain agriculture as a permanent, viable land use and to comply with the provisions of the Wisconsin Farmland Preservation Law. **Nonfarm residences will be rezoned to Ag-Residential A-2 as the situation arises.** The Farmland Preservation Law permits eligible landowners to receive tax credits..
- (2) DESIGNATION. The Farmland Preservation Lands designated A-1 on the Town Zoning Map shall be for the purposes of this section:
 - (a) All those contiguous parcels of 35 or more acres each, under common ownership, that are primarily devoted to agricultural use as defined in Wis. Stat. §91.01(2) and contain 70% or greater land designated as Productive

Farmland as rated by United States Department of Agriculture (USDA), Natural Resources Conservation Service (NRCS). As of the date of adoption of this Section, as amended, this information is available at the following website: <http://www.nrcs.usda.gov/wps/portal/nrcs/site/national/home/>. The maps produced by USDA, NRCS designating Productive Farmland shall be the official soil survey maps for the Town. Additional contiguous parcels under the same common ownership with less than 70%, but more than 50%, Productive Farmland will also be included.

- (b) All those contiguous parcels of 35 or more acres, under common ownership, that are primarily devoted to agricultural use as defined in Wis. Stat. §91.01(2), are included on the Certified Pierce County Farmland Preservation Map for the Town of River Falls, and which score a minimum point total of 30.9 using the Land Evaluation Site Assessment (LESA) system developed by USDA, NRCS to rate site assessment (SA) factors. The SA factors used to evaluate and score for purpose of this subsec. (2)(b) are size of tract of total contiguous commonly owned parcels, compatibility of adjacent land uses, and compatibility of adjacent Farmland Preservation zoning.
 - (c) A farm having a current or previous Farmland Preservation Agreement with the Department of Agriculture, Trade and Consumer Protection (DATCP) or its predecessors.
 - (d) Parcels historically identified as having participated in farmland preservation programs, not currently independently verifiable, but verified by the present parcel owner.
- (3) PERMITTED USES. The following uses are permitted:
- (a) AA farm residence as defined in Wis. Stat. §91.01(19), or that existed prior to January 1, 2014. A dwelling lawfully existing upon the date of the adoption of this section which does not conform to this paragraph may be continued in residential use and shall not be subject to the limitations imposed or authorized under this section. A “farm residence” as defined in Wis. Stat. §91.01(10)(a)2 or 3 is allowed only pursuant to Conditional Use Permit granted under Section 17.06(4) of Town Code.
 - (b) Agricultural uses, meaning any of the following uses conducted for the purpose of earning an income or livelihood:
 - 1. Crop or forage production,
 - 2. Keeping livestock.
 - 3. Beekeeping.

4. Nursery, sod, or Christmas tree production.
5. Floriculture.
6. Aquaculture.
7. Fur farming.
8. Forest management.
9. Enrollment of land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
10. Any other use that the Wisconsin Department of Agriculture, by rule, identifies as an agricultural use.

(c) Accessory uses. As defined in Wis. Stat. §91.01(1), except those specifically regulated as conditional uses in 17.06(4).

1. Any other use that the department, by rule, identifies as an accessory use.

(d) In-season roadside stands for the sale of farm products produced on the premises and up to 2 unlighted signs not larger than 16 sq. ft. for each advertising sign.

(4) **CONDITIONAL USES.** The following conditional uses may also be allowed in the Farmland Preservation District, if a conditional use permit is obtained:

(a) The owner of the premises may construct one single family dwelling provided the use is consistent with agricultural use as provided in Wis. Stat. §91.01(2). Where application is made by a non-owner, a single family dwelling may be permitted, not to exceed one per farm operation, for occupancy by a person or family earning more than 50% of his/her/its livelihood from the farm operation.

(b) Commercial stables that meet Wis. Stat. §91.01(1).

(c) Gas and electric utilities that meet Wis. Stat. §91.46(4) unless they are a permitted use under Wis. Stat. §91.44(1)(f).

(d) Governmental uses that meet Wis. Stat. §91.46(5), such as police and fire stations, highway storage garages, solid waste disposal and sewage treatment plants, schools, parks and campgrounds, airports and landing strips and resource recovery sites.

(e) Veterinary supplies and services primarily for livestock.

- (f) Livestock supply sales, feed and farm implement sales.
- (g) Horse and riding equipment sales and service.
- (h) Temporary housing for seasonal farm labor under Wis. Stat. §103.92.
- (i) Gravel pits, quarries and excavation activities, providing that they are for specific projects, primarily for governmental operations or are incident to farming operations. All nonmetallic mining must meet Wis. Stat. §91.46(6).
- (j) Home occupations and professional offices conducted within and accessory to single family dwelling and that meet Wis. Stat. §91.01(1).
- (k) Rural home occupations which meet Wis. Stat. §91.01(1) and the following conditions:
 - 1. The outside storage area and all vehicles, materials and equipment being stored there shall be screened and/or landscaped in such a manner as to prevent it from being visible at any time of the year from the road rights-of-way, public properties and surrounding dwellings.
 - 2. Rural home occupations shall be limited to existing farm residences or structures or portion of the existing farmstead which is not dedicated to agricultural uses.
- (5) **PROHIBITED USES.** All uses not listed as permitted or conditional uses are prohibited including, but not limited to, mobile home parks, dance halls and outdoor concerts and structures and improvements inconsistent with agricultural uses.
- (6) **STANDARDS FOR CONDITIONAL USES.** The Department of Agricultural, Trade and Consumer Protection shall be notified of the approval of any conditional uses. In reviewing applications for conditional uses, the Town shall consider the following criteria:
 - (a) Purposes of this chapter and the intent of the A-1 Zoning District.
 - (b) Potential for conflict with agricultural uses.
 - (c) Need of the proposed use for a location in an agricultural area.
 - (d) Availability of alternative locations.
 - (e) Compatibility with existing or permitted uses on adjacent lands.

- (f) Productivity of the lands involved.
 - (g) Location of the proposed use so as to reduce to a minimum the amount of productive agricultural land converted.
 - (h) Current and future need for public services created by the proposed use.
 - (i) Availability of adequate public services and the ability of affected local units of government to provide them without an unreasonable burden.
 - (j) Effect of the proposed use on water or air pollution, soil erosion and rare or irreplaceable natural resources.
- (7) **APPLICATION FOR CONDITIONAL USE PERMITS.** This subsection permits the application for a conditional use permit in the Farmland Preservation District. Such an application for conditional use shall be filed with the Zoning Administrator. Thereupon, the matter shall be referred to the Plan Commission for public hearing and recommendation. The recommendation of the Plan Commission shall be submitted to the Town Board for final hearing and actions. The hearings shall be preceded by the notice required under §17.10 of Town Code.
- (8) **CONDITIONS WHICH MAY BE ATTACHED TO CONDITIONAL USES.**
- (a) Upon consideration of information supplied at the public hearing and a review of the standards contained in sub. (6) above, the following conditions may be attached to the granting of a conditional use:
 1. Increased setbacks and yards.
 2. Specifications for water supply, liquid waste and solid waste disposal facilities.
 3. Landscaping and planting screens, sureties, operational controls and time of operation.
 4. Air pollution controls, erosion prevention measures.
 5. Reclamation measures and performance bonds.
 6. Special inspections.
 7. Additional fees to offset public costs of administering, monitoring and enforcing conditions.
 8. Location of the use.

9. Similar requirements found necessary to fulfill the purpose and intent of this section.

(b) Violation of the conditions shall constitute a violation of this section as provided in §17.15 of Town Code.

(9) HEIGHT, AREA AND SETBACK REQUIREMENTS.

(a) General building requirements, unless otherwise specified.

(b) Minimum lot area for a residence or farm operation is 35 acres, except as provided below:

1. The minimum lot area for an additional dwelling for persons earning more than 50% of their livelihood from the farm operation or parents or children of the farm operator shall be 2 acres.
2. The minimum lot area for farm dwellings or structures existing before January 1, 2014 and which are separated from a larger parcel through farm consolidation may be up to 5 acres, but not less than 2 acres.
3. Non-farm residences can be built in the A-1 district only if they are issued a conditional use permit in accordance with Wis. Stat. §91.46(2)(c). Any building, structure or accessory use or building may be erected on any single lot of record at the effective date of adoption or amendment of this chapter, except that all other provisions of this chapter shall apply. Such lot shall be in separate ownership. This provision shall apply even though such lots fail to meet the requirements for area, width or both that are applicable in the district, provided that yard dimensions and requirements other than those previously stated shall conform to the regulations for the district. Variance of yard requirements shall be obtained through action of the Board of Appeals.

(10) MINIMUM LOT SIZE, BUILDING HEIGHT AND YARD REQUIREMENTS FOR CONDITIONAL USES. The minimum lot size, building height and yard requirements for conditional uses shall be specified in the conditional use permit, but in no case shall the side yard requirement be less than 50' and the front yard requirement less than the distance specified in the general provisions of this section.

(11) BUILDING RESTRICTIONS ON PRIME FARMLAND OR FARMLAND OF STATEWIDE IMPORTANCE, CLASS I-III.

(a) No dwellings shall be erected on land classified as Prime Farmland or Farmland of Statewide Importance, also known as Class I, II, or III, by the Natural Resources Conservation Service, a division of the U.S. Department of Agriculture, as shown on the official soil survey maps for the Town.

- (b) Building restrictions on soils classified as Prime Farmland or Farmland of Statewide Importance.
1. Natural Resources Conservation Service (NRCS) Digital Soil Survey adopted. The NRCS Soil Survey and definitions, and all amendments thereto, is adopted and incorporated by reference and shall apply to the placement, location and erection (i.e., the “siting”) of all dwellings.
 2. All dwellings shall be sited on or touching “Not Prime Farmland” as identified and delineated in the latest NRCS Web Soil Survey of the Town, or "Not Prime Farmland" that has been identified and mapped by a certified professional soil scientist. The presence of "Not Prime Farmland" shall be demonstrated by no fewer than three (3) soil tests located no less than 40 feet apart from one another. If "Not Prime Farmland" has been verified as being present on a parcel the Town Board may grant Alternate Site Approval, at its discretion, following recommendation of the Plan Commission.
 - a. Submittal of a delineation of "Not Prime Farmland" by a certified professional soil scientist shall be accompanied by:
 - i. Name and address of owner.
 - ii. Map of survey or proposed Certified Survey Map (CSM) of site with soils data clearly delineated.
 - iii. A current copy of the credentials of the certified professional soil scientist who identified and delineated soils present on the site.
 3. Alternate Site Approval may be granted by the Town Board, at its discretion, if the alternate site is productive farmland and, if the driveway length is reduced by a least fifty percent (50%); or, if utilization of an otherwise compliant site would require crossing a permanent stream or traversing an existing forested area; or if the compliant site is in excess of 20% slope; or use of the compliant site would result in greater disturbance of soils defined as “Prime” than the alternate site. Where an alternate site has replaced a compliant site, the otherwise compliant site cannot be used as a site for dwellings.
 - a. Application for Alternate Site Approval shall be made to the Town Zoning Administrator and reviewed by the Town Plan Commission which shall formulate a recommendation prior to Town Board consideration. Application shall be made on forms provided by the Zoning Administrator and shall contain the following:
 - i. Name and address of owner.

- ii. NRCS Soil Survey Map of compliant site and proposed alternate site.
- iii. An accurately drawn plot plan that shows the entire parcel including present and proposed buildings.
- iv. A narrative explaining why the proposed alternate site is superior to the compliant site.
- v. A non-refundable fee, in an amount which shall be established from time to time by the Town Board.

(c) Restriction Exception. In the event of a fire, storm or other casualty causing destruction or substantial damage to any single family dwelling house and/or garage existing in the Town prior to January 1, 2014, which damage or destruction is sufficient to render such dwelling house uninhabitable, the owner or occupant of such dwelling and/or garage shall be able to rebuild on said farm regardless of soil classification. The uninhabitable house and/or garage must be removed.

(12) All new livestock facilities over 500 animal units, and existing livestock facilities which expand more than 20% after May 1, 2006, which will have over 500 animal units in total, shall be subject to the Livestock Facility Siting rules, regulations and provisions as set forth in § 93.90 Wisconsin Statutes, and Chapter ATCP 51, Wisconsin Administrative Code, and any and all amendments made thereto.

(13) AMENDMENTS.

(a) The Town may amend the districts and regulations in accordance with Wis. Stat. §62.23(7a)(f).

- 1. In addition, when considering an amendment of the Farmland Preservation Zoning District (A-1), the procedures and standards listed in 12(a)2.a-i of Town Code shall be used.
- 2. The Department of Agriculture, Trade and Consumer Protection shall be notified of all rezonings by March 1 of the following year per Wis. Stat. §91.48(2). Pierce County Land Management also shall be notified by March 1 of the following year per Wis. Stat. §91.48(3). All rezones out of the certified district must meet Wis. Stat. §91.48(1). Decisions on petitions for rezoning areas zoned for Farmland Preservation shall be based on findings which consider:
 - a. Adequacy of existing or proposed facilities to serve the development.

- b. Burden upon the local government by providing these facilities.
- c. Suitability of the land for development.
- d. Air and water pollution, soil erosion or adverse effects on rare or irreplaceable natural areas which the development causes.
- e. Potential for conflict with remaining agricultural uses in the area.
- f. Need of the proposed development for a location in an agricultural area.
- g. Availability of alternative locations.
- h. Productivity of the agricultural lands involved.
- i. Location of the proposed development to minimize the amount of agricultural land converted.

17.065 AGRICULTURAL RESIDENTIAL DISTRICT (A-2). (Am. 1990-1; Am. 10/19/98)

- (1) **PURPOSE.** (Am. 8/7/00) The Agriculture Residential District is intended to preserve productive farmlands and to protect farming operations from conflicting land uses. Further, this District is designed to prevent the inefficient spread of urban development into agricultural areas that are inadequately served by public facilities.
- (2) **PERMITTED USES.** (Rn. 10/19/98; Am. 8/7/00)
 - (a) In the Agricultural Residential District no structure or premises shall be used and no structure shall hereafter be erected or structurally altered, unless otherwise provided in this Chapter, except for one or more the following uses:
 - 1. Forestry, nurseries, orchards, specialty cropping, and similar agricultural production operations. (Cr. 10/19/98)
 - 2. In season removable roadside stands for the sale of farm products produced on the premises, and up to 2 signs not larger than 10 sq. ft. each for advertising the permitted roadside stand. (Cr. 10/19/98)
 - 3. Farm dwellings which serve as the principal residence for the owner, operators and employees of the agricultural enterprise. (Cr. 10/19/98)
 - 4. General farming including raising and caring for livestock. (Am. 10/19/98;

Rn. 8/7/00)

5. Dwellings and accessory buildings. (Cr. 8/7/00)

(b) Professional home offices and rural home occupations.

1. Professional home offices, and the following rural home occupations: activities such as cabinet making, auto and auto body repair, retail sales, pottery manufacturing, day care and baby-sitting, real estate sales, insurance sales, laundering, beauty shops, barber shops, gunsmithing, jewelry making, the making of crafts, dance studios, woodcarving studios, outboard motor and small engine repair, lawn care and/or landscaping, upholstering, dressmaking, curtain making and other such similar activities. Any rural home occupation conducted in the agricultural residential district must be consistent with, and is restricted by, the definition of same in Sec. 17.01(3). (Am. 7/18/94; Rn. 10/19/98; Am.. 8/4/03).
2. The professional home offices and rural home occupations specified above are permitted within a single dwelling unit provided that no more than 25% of total floor space is used for the home or farm based occupation or within a single detached accessory structure or outbuilding up to 1000 sq. ft. in total floor area, and where no equipment, supplies, miscellaneous items, raw materials, items to be sold or repaired, or other items associated outside of the allowable indoor floor area. The parcel must be at least 5 acres in area and be located in the Agricultural Zoning District. Property line setbacks must be at least 100 ft. when adjoining any parcel located in the Residential Zoning Districts. There shall be no more than two rural home occupations or professional home offices per lot. Normal, customary and permitted agricultural uses or practices may continue without restriction (Cr. 7/18/94; Am.. 8/4/03).

(3) PROHIBITED USES. (Rn. 10/19/98)

- (a) No trailer camps or planned mobile home developments shall be permitted in the Agricultural District.
- (b) Building restrictions on prime farmland or farmland of statewide importance, Class I-III.
 1. No dwellings shall be erected on land classified as Prime Farmland or Farmland of Statewide Importance, also known as Class I, II, or III, by the Natural Resources Conservation Service, a division of the U.S. Department of Agriculture, as shown on the official soil survey maps for the Town.
 2. All dwellings shall be sited on or touching "Not Prime Farmland" as

identified and delineated in the latest NRCS Web Soil Survey of the Town, or "Not Prime Farmland" that has been identified and mapped by a certified professional soil scientist. The presence of "Not Prime Farmland" shall be demonstrated by no fewer than three (3) soil tests located no less than 40 feet apart from one another. If "Not Prime Farmland" has been verified as being present on a parcel the Town Board may grant Alternate Site Approval, at its discretion, following recommendation of the Plan Commission.

- a. Submittal of a delineation of "Not Prime Farmland" by a certified professional soil scientist shall be accompanied by:
 - i. Name and address of owner.
 - ii. Map of survey or proposed Certified Survey Map (CSM) of site with soils data clearly delineated.
 - iii. A current copy of the credentials of the certified professional soil scientist who identified and delineated soils present on the site.
3. All non-farm buildings shall be sited on or touching "Not Prime Farmland" as identified and located in the latest NRCS Web Soil Survey of the Town unless the Town Board of Supervisors has granted Alternate Site Approval. Alternate Site Approval may be granted by the Town Board if the alternate site is "Farmland of Statewide Importance" (Class 3); and if the driveway length is reduced by a least fifty percent (50%); or, if utilization of an otherwise compliant site would require crossing a permanent stream or traversing an existing forested area; or if the compliant site is in excess of 20% slope; or use of the compliant site would result in disturbance of soils defined as "Prime" and the alternate site would not. Where an alternate site has replaced a compliant site, the otherwise compliant site cannot be used as a site for non-farm buildings.
 - a. Application for Alternate Site Approval shall be made to the Town Zoning Administrator and reviewed by the Town Plan Committee which shall formulate a recommendation prior to Town Board consideration. Application shall be made on forms provided by the Zoning Administrator and shall contain the following:
 - i. Name and address of owner.
 - ii. NRCS Soil Survey Map of compliant site and proposed alternate site.
 - iii. An accurately drawn plot plan that shows the entire parcel including present and proposed buildings.

- iv. A narrative explaining why the proposed alternate site is superior to the compliant site.
 - v. A non-refundable fee, in an amount which shall be established from time to time by the Town Board.
4. If an attached deck or garage is used to achieve the requirements of Section 17.065(3)(b)(2) above, the footings for the deck or garage must be installed at the same time as the main structure.
 5. If an attached deck or garage is used to achieve the requirements of Section 17.065(3)(b)(2) above, the dimensions of this attachment cannot exceed the main floor of the main structure in length or width.
 6. In the event of a fire, storm or other non self-imposed casualty causing destruction or substantial damage to any single family dwelling house and/or garage existing in the Town prior to August 7, 2000, which damage or destruction is sufficient to render such dwelling house and/or garage uninhabitable, the owner or occupant of such dwelling house and/or garage shall be allowed to rebuild a dwelling house and/or garage, as the case may be, within 100 feet of the previous dwelling on said farm regardless of soil classification. The uninhabitable house and/or garage must be removed prior to reconstruction of the new dwelling house or garage.
 7. If an owner desires to replace an existing non-farm building located on soils classified as Prime Farmland or Important Farmland, the existing structure can be removed only after written approval by the Town Zoning Administrator. Where permission is granted by the Zoning Administrator to remove an existing structure, the existing structure must be removed prior to its replacement. When the non-farm building to be replaced is a dwelling, the Board may grant the owner or applicant a period not exceeding one hundred eighty (180) days to remove the existing structure following issuance of an occupancy permit for the new residence. The Board shall establish the date by which the removal must be completed in such instance. The new dwelling shall be within 100 feet of the old dwelling and meet current setbacks.
 8. If the owner or applicant can prove that a residence existed on Prime Farmland and/or Important Farmland prior to the establishment of this ordinance (such proof can be official records or remains of an existing residence) a non-farm building may be permitted by the Town Board on Prime Farmland and/or Important Farmland within 100 feet of the old structure. Such proof shall be presented to the Plan Commission for their recommendation to the Town Board. The overall permitted density of lots

per quarter quarter section as set forth in elsewhere in this Chapter is otherwise unaffected.

9. Where an owner or applicant has obtained written dwelling site approval, subsequent changes in soil classification shall not result in cancellation or revocation of such site approval. Where written site approval is granted by the Town the approved site shall be considered one “lot” for purpose of establishing maximum density under Section 17.065(6).
10. No site approval will be given under this subsection where the parcel upon which the proposed single family residence and/or garage is located if the parcel is under 15 acres in area, unless the parcel has a legal description established by Certified Survey Map or is a separate, pre-existing legal description with separate tax parcel number.
 - a. No rural home occupation or professional home offices shall be allowed unless granted a conditional use permit by the Town Board, after a public hearing. The Town Board may, at its discretion, apply conditions to that permit. Examples of these conditions could include, but not be limited to the following: driveway standards, excessive traffic, septic inspection, fencing or screening, health or safety considerations, letter of intent to include, but not be limited to, general services, typical hours of operation, presence of chemicals or hazardous materials and waste. Permits may not be transferred from one owner to another. A new permit must be obtained by each owner. (Cr. 7/18/94; Am. 8/3/04).

(4) NUMBER OF EMPLOYEES. (Cr. 7/18/94; Rn. 10/19/98)

- (a) Not more than 2 full time equivalent employees associated with the home or farm based occupation, who are not residents of the parcel, may be employed.

(5) CONDITIONAL USES. (Cr. 10/19/98)

- (a) Enterprises engaged in the sale and service of machinery used in agricultural production.
- (b) Facilities for the centralized bulk collection, storage, and distribution of agricultural products to wholesale and retail markets.
- (c) Storage and sale of seeds, feeds, and similar products essential to agricultural production.
- (d) Bed and Breakfast Inns.
- (e) Other uses essential for the support of agricultural production, provided such uses do not conflict with the purposes of the Agriculture District.

(f) Structures exceeding 35 ft. in height.

(6) LOTS. (Cr. 10/19/98)

(a) There shall be no more than 4 lots per quarter quarter section (as laid out in the system of rectangular survey relating to base lines established by the Federal Government).

(b) A quarter quarter section is not merely an aggregate 40 acre parcel of real estate, rather it is what is typically known as a forty being synonymous with a quarter quarter section.

(c) Minimum lot areas. The minimum lot area shall be 2 acres. All residential lot sizes shall comply with ILHR 85 of the Wisconsin Administrative Code.

(d) Only one single family residence shall be permitted per lot.

(e) Minimum Yards.

1. Side &Rear. The minimum side and rear yard shall be 10 ft. as measured from the lot line to the nearest point of the structure.

(7) BUILDINGS. (Cr. 10/19/98)

(a) Height. No building structure or sign shall exceed 35 ft. in height above the grade elevation except as provided in subsection (7)(a)1.

1. Agricultural structures such as silos, barns, and grain storage buildings or grain elevators.

(b) Duplexes will not be allowed.

(8) Livestock facilities with over 500 animal units shall not be permitted in the Agriculture Residential District. They are permitted only in the Farmland Preservation District.

17.07 COMMERCIAL DISTRICT (C-1). (Am. 10/19/98)

(1) PURPOSE. The Commercial District provides an area for commercial, business and professional service uses and other areas of compact development served by private or public sewage systems as specified in ILHR 85 of the Wisconsin Administrative Codes.

(2) PERMITTED.

- (a) By way of illustration, and not exclusion, the following and like business services are permitted: appliance dealers; art, gift, jewelry and notions shops; bakeries, insurance and real estate offices; barber shops; beauty parlors; banks and financial institutions; clinics; clothing stores; drug stores and pharmacies; eating and drinking establishments; florists; food lockers; fruit, vegetable, meat, fish, grocery supermarkets, and other retail food stores; furniture, department, and hardware stores; hotels, motels, motor lodges, and inns; laundries and dry cleaners; liquor stores; music, radio and television stores, news-stands; offices; optical stores; parking lots; places of entertainment; retail stores; sporting goods stores; clubs, fraternal organizations, and lodges operated for profit; vehicular sales and service; gasoline stations; funeral homes; municipal buildings; mini-storage or self-storage facilities; and security fences. (Am. 10/19/98)
- (3) **PARKING REQUIREMENTS.** (a) One space per 200 sq. ft. of building. (Cr. 10/19/98)
- (4) **SIGN REGULATIONS.** (a) Any sign being erected must follow the regulations in Section 17.13 of this Code. (Cr. 10/19/98)
- (5) **EROSION CONTROL.** (a) The erosion control regulations in Section 17.12 must be followed. (Cr. 10/19/98)
- (6) **SITE PLAN.** (a) When an application for a use permit is submitted, the owner or developer shall also submit a site plan of the proposed development (following Section 17.035 of this Code) showing the location of the building, required setback lines, internal streets and parking areas, landscaping, screening, adequate street lighting, and other information as may be required by the Plan Commission. No use permit shall be issued unless the site plan has been approved by the Plan Commission and the Town Board. (Cr. 10/19/98)

17.075 LARGE SCALE RETAIL DEVELOPMENT (Cr. 9/2/03)

- (1) The magnitude of large scale retail developments pose unique challenges to the community due to size, impact on traffic circulation, parking, storm water facilities, and visual impact on the community that sets them apart from smaller establishments within the Town commercial zoning districts. Pursuant to the Authority of Section 62.23 (3), Wis. Stats., this Section is created to establish requirements which further the goal of guiding and accomplishing coordinated harmonious development of large scale retail development within the Town. Specifically, the requirements created by this ordinance are to ensure that large-scale retail developments are compatible with surrounding land uses and contribute to the unique community character of River Falls as well as to its aesthetics and the health, safety, and general welfare of the Town and its citizens are protected.

- (2) Definitions. The following definitions shall control interpretation and application of this ordinance:
- (a) ACCESSORY STRUCTURE means structures, which are subordinate to the principal structure used as a large retail establishment, including but not limited to garages, sheds, automobile maintenance centers or storage or maintenance facilities.
 - (b) ADJOINING RESIDENTIAL PROPERTY means a lot, parcel or other legal division of land which is zoned residential or on which a single or multiple family dwelling is located, whether consistent with or inconsistent with current zoning regulations, or could be located consistent with current zoning regulations.
 - (c) BUILDINGS means a structure with walls and a roof, which are suitable for use by humans or for storage.
 - (d) COMMERCIAL ESTABLISHMENT means a retail business consisting of on or more retail operations, stores, or shops, whether jointly or separately owned or operated, doing business from a principal structure subject to this ordinance.
 - (e) FAÇADE means each side of a principal structure subject to this ordinance.
 - (f) FRONT CORNERS mean each corner of the side of the principal structure, which faces the public street on which its main customer entry or entries are located.
 - (g) GROSS FLOOR AREA means the square footage of all space contained within the exterior walls of the principal structure.
 - (h) LARGE RETAIL ESTABLISHMENT means a commercial establishment, further defined under (d), above, whose gross floor area equals or exceeds 25,000 square feet.
 - (i) OPEN AREA means that portion of a lot, parcel, or other legal division of land used as a large retail establishment, but which does not consist of structures or buildings.
 - (j) OUTDOOR STORAGE OR SERVICE AREA means an area not situated in a building or structure used for the storage or processing of solid waste, maintenance equipment or other materials.
 - (k) OWNER means the owner, or developer of a large retail establishment.
 - (l) PRINCIPAL STRUCTURE means the main structure on the lot, parcel or other legal division of land used for the conduct of a commercial

establishment referred to herein as a large retail establishment.

- (m) PROJECT SITE means the lot, parcel or other legal division of land on which a large retail establishment is located.
 - (n) STRUCTURE means anything man made which is constructed or erected having a location on or attached to something having a location on or under the ground, including but not limited to a building.
- (3) Applicability. Each retail commercial establishment with a gross floor area of 25,000 square feet or more shall conform to the following development standard in addition to all other applicable requirements enforced pursuant to ordinances, rules, regulations, and laws. Any building in existence as of (insert date of adoption) shall comply with this ordinance if an addition constructed exceeds fifty (50) percent of the original gross floor area and the total gross floor area after construction equals or exceeds 25,000 square feet.
- (4) Zoning. Classifications of Large Retail Establishments: Large retail establishments shall be located only upon land which is zoned commercial. Large retail establishments whose gross floor areas are equal to or exceeds 25,000 square feet and less than 150,000 square feet shall comply with the requirements of this Section while those which exceed 150,000 square feet in gross floor area shall be required to apply for and receive a conditional use permit from the Town Board which shall apply the standards of the General Code of Ordinances, in addition to those set forth herein, in determining whether to grant such permit.
- (5) Application for Conditional Use Permit for a Large Scale Retail Development Larger than 150,000 Square Feet. An application for conditional use shall be filed with the Zoning Administrator. Thereupon the matter shall be referred to the Planning Commission for public hearing and recommendation. The recommendation of the Planning Commission shall be submitted to the Town Board for final hearing. The hearings shall be preceded by notice required under Section 17.10.
- (6) Professional Fees & Disbursements. Each retail commercial establishment with 25,000 square feet shall pay a fee to the Town Clerk equal to the actual costs to the Town for the professional fees and disbursements incurred by the Town by reason of the review and proposed use and improvements by any professional employees and consultants, including without limitation by way of enumeration, the planner, engineer, surveyor, attorney and any other professional employees or consultants hired by the Town with respect to consideration thereof. This shall include, without limitation by way of enumeration, the following:
- (a) Review of such application and proposed use and improvements and the plans therefore.

- (b) Inspection of the site and the improvements as and after such improvements are constructed.
 - (c) Tests and other evaluations deemed necessary by such professional employees and consultants for their review and inspection.
 - (d) Drafting or other preparation of any written opinions, advice and suggestions with with respect thereto.
 - (e) Drafting and preparation of any ordinances, resolutions, contracts, agreements and other documents with respect thereto.
 - (f) Attendance at public meetings or hearings and telephone and actual conferences.
 - (g) Any other professional services and disbursements charged to the Town which were necessitated by the submission and review of such application and proposed use and improvements, and construction of improvements and erosion and sediment control measures therein.
- (7) Design Standards. The development shall meet all design standards of this section and shall be subject to such other regulation and standards as directed by the Town Board.
- (a) Architectural Style. Architectural style shall be coordinated to create visual cohesiveness. Within the development collectively constituting the large retail establishment, all buildings, the principal structure, accessory structures, canopies, parking lots and other open spaces as well as signs shall be of a unified design.
 - (b) Building Setbacks. The minimum setback for building facades shall be thirty-five (35) feet as measured from the nearest property line. No structure or building may be placed between the setback line and a property line unless approved as part of a Planned Unit Development.
 - (c) Building Height. Maximum height shall not exceed thirty-five (35) feet.
 - (d) Building Width and Facade. Facades greater than one hundred (100) feet in length shall incorporate wall plan projections or recesses having a depth of at least three (3) percent of the length of the facade and extending at least twenty (20) percent of the length of the facade. No uninterrupted length of any facade shall exceed one hundred (100) horizontal feet.
 - (e) Facade and Exterior Walls. Ground floor facades that face public streets shall have arcades, display windows, entry areas, awnings and other such design features as may be selected by the owner along no less than sixty (60) percent of their horizontal length. Where large retail establishments contain

separately owned stores with separate exterior customer entrances the street level facade and facades that face the main entry to the establishment shall be transparent between the height of three (3) feet and eight (8) feet above the walkway grade no less than sixty (60) percent of the horizontal length of the building facade.

- (f) Rear Facades/Delivery Loading Operations. Delivery/loading operations shall be screened from public areas by landscaping or walls of not less than six (6) feet in height, constructed of the same materials as are used in the principal structure.
- (g) Optional rear entrances are encouraged, but not required. In the event that the owner desires or intends to facilitate delivery, loading, trash removal or compaction or other similar noise producing activities between the hours of 10:00 p.m. and 6:00 a.m., the owner shall submit evidence of the placement of appropriate sound barriers which shall effectively reduce noise emissions to a level of forty five (45) dB as measured at the lot line of any adjoining residential property.
- (h) Entries. Each large retail establishment shall have a clearly defined, highly visible customer entrance featuring no less than three (3) of the following as determined by the Town Board.
 - 1. Canopies or Porticos
 - 2. Overhangs
 - 3. Recess/Projections
 - 4. Arcades
 - 5. Raised Cornice Parapets over the Door
 - 6. Peaked Room Forms
 - 7. Arches
 - 8. Outdoor Patios
 - 9. Display Windows
 - 10. Architectural details such as tile work and molding, which are integrated into the building structure and design.
 - 11. Integral Planters or Wing Walls. Each large retail establishment may install planters or wing walls that incorporate landscaped areas and/or

places for sitting.

- (i) Where all facades of a large retail establishment directly face two (2) abutting public streets, this requirement shall apply to only two (2) sides of the structure, including the side of the structure facing the primary street and another side of the structure facing a second street.
- (j) Roof Treatment. Roofs shall have no less than two (2) of the following features:
 - 1. Parapets concealing flat roofs and roof top equipment such as HVAC units from public view. The average height of such parapets shall not exceed fifteen (15) percent of the height of the supporting wall and such parapets shall not at any point exceed one third (1/3) of the height of the supporting wall. Such parapets shall feature three dimensional cornice treatments.
 - 2. Overhanging eaves, extending no less than three (3) feet past the supporting walls.
 - 3. Surface coverings on flat roofs shall be of material that is non-reflective and non-glare. Heavy-duty contoured asphalt shingles, cedar shakes, and standing seam metal roofing materials are acceptable for pitched roofs.
 - 4. Sloping roofs that do not exceed the average height of the supporting walls, with an average slope greater than or equal to one (1) foot of the vertical rise for every one foot of horizontal run.
 - 5. Three (3) or more roof slope planes.
- (k) Awnings and Canopies. Awnings and canopies shall be considered part of the establishment's open area. Awnings and canopies that are part of an arcade shall constitute at least fifty (50) percent of the length of the arcade. Internally illuminated awnings are prohibited.
- (l) Mechanical Equipment. All rooftop equipment shall be screened from view from adjacent streets, public right-of-ways, and adjacent properties. Rooftop equipment shall be screened by the building parapet or located out of view from the ground. If this is deemed not feasible by the Planning Commission the equipment may be grouped within a single enclosure as permitted by the Planning Commission. This structure shall be set back a distance of one and one half (1-1/2) times the height of any façade fronting a public street. Screens shall be of durable materials (not including wood) that are compatible with the primary building materials.
- (m) If an outdoor storage or service area faces an adjacent residential area, public street alley or walkway, it shall be screened from view by masonry walls or an

earthen berm five (5) feet wide and plant material at least five (5) feet in height. Screen walls shall be architecturally compatible with the principal structure.

(n) Parking Lot Layout. No more than fifty (50) percent of the off street parking area for the lot, tract, or area of the land devoted to the large retail establishment shall be located between the front facade of the large retail establishment and the abutting streets.

1. The front parking area shall be determined by extending a line from the front corners of the principal structure to the nearest property corners. If any such line, when connected to the plan of the front facade of the principal structure creates an angle greater than one-hundred-eighty (180) degrees then the line shall be adjusted to create an angle of one-hundred-eighty (180) degrees when connected to the plan of the front facade of the principal structure.
2. If any such line when connected to the plan of the front facade of the principal structure creates an angle less than ninety (90) degrees, then the line shall be adjusted to create an angle of ninety (90) degrees when connected to the plan of the front facade of the principal structure.
3. Parking areas shall be designed so that no more than one hundred (100) parking spaces are part of a clearly delineated grouping of spaces of the total required spaces. Such groups shall be separated by landscaping or weather protected pedestrian walkways, significant landscape or geographic features and/or design components of the proposed building.
4. Six spaces per 1,000 square feet of an integrated center shall be required. However, 25 percent of the required spaces shall be maintained as grass and shall be reserved for future parking development and shall not be improved to ordinance standards until a demonstrated need requires improvement. A demonstrated need shall be documented by the developer and approved by the Planning Commission. The Planning Commission shall also have the authority to require development of reserved spaces at any time.

(o) Landscaping and Screening of Parking Areas. Landscaped green areas within parking lots include landscaped walkways, driveways, separators, parking lot islands, and linear landscape features shall, at a minimum, comprise an area equal to ten (10) percent of the paved parking area within the development, including driveways.

1. Shrubs and ground covers shall comprise fifty (50) percent of the required parking lot landscape areas and no individual required landscape area shall be devoid of shrubs or ground cover.

2. Parking lots shall provide a minimum of one (1) tree per ten (10) parking spaces. At least fifty (50) percent of these trees must be shade trees. Rows of parking shall be broken every ten (10) spaces by a landscape break a minimum of seven feet in width.
- (p) General Landscaping and Screening. Where any facade faces an adjoining residential property, an earthen berm no less than six (6) feet in height containing, at a minimum, evergreen trees planted at intervals of twenty (20) feet on center, or in clusters or clumps shall be provided.
1. Where the large retail development directly abuts residential properties, a six foot high screening wall shall be required. Where visible from any right-of-way these walls will also have a three (3) foot high (within one year of planting) hedge on the side facing the right-of-way and running the length of the wall where visible. Maintenance of the landscaping shall be the responsibility of the commercial property owner. Alternative buffers may be approved on a case- by-case basis by staff.
 2. At a minimum, a ten (10) foot landscape buffer is required between adjoining parcels (side and rear boundaries). This buffer shall be planted with two (2) shade trees per one hundred (100) linear feet and three (3) under story trees per hundred (100) linear feet. An under story tree shall be defined as any tree with a maximum height at maturity of twenty-five (25) feet or less, and shall be acceptable to the County Forester with regards to species and variety.
 3. Where adjoining parcels are designed as one buffer the combined buffers may be reduced to ten (10) feet if the shrubs and ground cover are increased to seventy-five (75) percent of the required buffer area. No less than five (5) feet will be required on each of the two adjoining parcels.
 4. A minimum of a ten (10) foot wide landscape area shall be located around all portions of a building facing a public street or public parking area, or an adjoining building facing the property.
 5. Shrubs and ground covers shall comprise at least thirty (30) percent of the required buffer area, and shall form a continuous three (3) foot high landscape screen (within one year of planting).
 6. All open areas around structures shall be landscaped with trees, shrubs, ground covers, perennials, annuals, or sod.
 7. An average of one (1) shade tree or under story tree shall be provided for every thirty (30) linear feet of structure perimeter.
 8. All edges of structures shall have a planting of shrubs and other suitable vegetation approved by the Town Board providing minimum groundcover

of 50% of the adjoining surface area within the distance of 20 feet of the structure.

- (q) Pedestrian/Bicycle Circulation. Sidewalks shall be at least eight (8) feet in width and shall be provided along all sides of the lot that abut a public street. Sidewalks no less than eight (8) feet in width shall be provided along the full length of the structure along any facade featuring a customer entrance and along any facade abutting public parking areas. Such sidewalks shall be located at least six (6) feet from the facade of the building to provide planting beds for foundation landscaping, except where features such as arcades or entryways are part of the facade.
1. Bicycles shall share access to all pathways. Bicycle racks shall be placed at convenient access points near the entrance.
 2. Continuous internal pedestrian/bicycle pathways not less than eight (8) feet in width shall be provided from the public sidewalk or right-of-way to the principal customer entrance of all large retail establishments. At a minimum, pathways shall connect focal points of pedestrian activity such as but not limited to transit stops, street crossings, building and store entry points, and shall feature adjoining landscaped areas that include trees, shrubs, benches, flower beds, ground covers, or other such materials for no less than fifty (50) percent of the length of the pathway.
 3. Internal pedestrian walkways shall provide weather protection features such as awnings or arcades within thirty (30) feet of all customer entrances. All internal pedestrian walkways shall be distinguished from driving surfaces through the use of durable, low maintenance surface materials such as pavers, bricks, or scored concrete to enhance pedestrian safety and comfort as well as attractiveness of the walkways.
- (r) Signs. Freestanding signs shall not exceed a maximum area of 32 square feet per parcel of land. Maximum height of a freestanding sign shall be twelve (12) feet as measured from the elevation of the nearest sidewalk and shall be no closer than ten (10) feet from the right-of-way and shall not infringe on any required vision sight lines for traffic safety.
1. A maximum of 32 square feet of display surface area signage shall be allowed on the facade of the structure. Display surface shall be defined as the area enclosed by the outer extremities of all letters, characters, or delineations used for purposes to attract attention to a given sign. A display surface shall not include supports or devices used to attach the sign to another surface.
 2. Animated signs, flashing signs, blinking signs, or signs that have copy that changes automatically are prohibited.

3. No more than twenty-five (25) percent of window area may be occupied by signage of any kind. The design and materials from which signs are constructed shall be consistent with those incorporated into the principal structure of the large scale retail development in question.
- (s) Outdoor Space. Each large retail establishment subject to these standards shall contribute to the establishment and enhancement of community and public spaces by providing at least two (2) of the following: patio/seating area, pedestrian plaza with benches, transportation center, window shopping walkway, outdoor play ground area, kiosk area, water feature, clock tower, or other such deliberately shaped areas and/or a focal feature or amenity that enhances such community and public spaces. Any such areas shall have a combined minimum of 5% of the gross floor area and shall have direct access to the public sidewalk network and such features shall not be constructed of materials that are inferior to the principal materials and landscape.
- (t) Gateways. Large retail establishments shall provide an aesthetically pleasing transition between the public right-of-way and entrance to the development through the use of at least three (3) of the following elements as determined by the Town Board:
1. Tree lined boulevards
 2. Landscaped medians.
 3. Enhanced pedestrian and bicycle linkages distinguished from driving surfaces through the use of durable low maintenance materials such as pavers, bricks or scored concrete.
 4. Pedestrian scale lighting.
 5. Entry focal point.
 6. Distinctive directional signage.
- (u) Outdoor Lighting. Light design and installation shall emphasize low level, uniform lighting to avoid abrupt changes from bright lights to darkness.
1. Design limits and intensity requirements shall be placed by the Town Board on large retail establishments consistent with neighboring uses and designed to provide ample ground level lighting while minimizing reflection of light into the atmosphere.
 2. Parking and security lights shall not be taller than the adjacent structures or a maximum of twenty-four (24) feet above the pavement, whichever is less. All lighting must be shielded or angled at a 90-degree angle directly horizontal to the ground so as to avoid light pollution.

- (8) Maintenance and Abandonment. The owner shall enter into an Escrow Agreement with the Town. The escrow fund total shall be set at 5% per year of the assessed value of the completed improvements. Escrow payments shall be required on an annual basis with the first payment due on or before December 31 of the year the assessed value is established and each year thereafter for a period of 20 years. The funds are to be used by the Town for the following purposes:
- (a) Demolition of all or part of the improvements in the event that the property is abandoned or is the subject of a tax deed under Chapter 75 of the Wisconsin Statutes, for non-payment of real estate taxes, special assessments, or other charges or taxes.
 - (b) In the event that the retail use of the improved real estate by the owner, its successors or assigns is terminated, whether voluntarily or involuntarily, the Town may devote escrow monies toward all recruitment of other retail or other businesses to make use of all or part of the improvements.
 - (c) Maintenance repairs and general upkeep of the real estate in the event that, upon thirty (30) day notice, the owner, its successors or assigns, fail or refuse to engage in adequate efforts to keep the property from being legally susceptible to condemnation.
 - (d) To pay the cost of any remedial action which must be undertaken by the Town to bring the premises in compliance with this Section or to pay any fines, forfeiture, court costs, disbursements and attorney fees to enforce this Section.
- (9) Prohibition Against Covenants or Other Use Restrictions. The owner, its successors and assigns shall not encumber the real estate with any restrictive covenants or other restrictions whose effect shall be to limit, restrict, prohibit or forbid any subsequent owner, tenant, or other user of the property from making use of the property for any purpose which is allowed under local or State law. This prohibition shall apply to and shall act to prevent the owner from restricting or prohibiting competing retail use of the property.
- (10) Capital Costs. The owner shall provide and pay for a capital cost study to determine its proportionate share of the capital improvements necessary to support the development. Capital costs shall be defined as the costs to construct, expand, or improve public facilities, including the cost of land, legal services, engineering, planning, and design costs to construct, expand, or improve public facilities. A capital cost does not include other non-capital costs to construct, expand, or improve public facilities or the costs of equipment to construct, expand or improve public facilities.
- (11) Most Restrictive Ordinance. In the event of a conflict or inconsistency between the requirements of the Large Retail Development Ordinance and any other ordinances, the more restrictive requirement shall apply.

- (12) Severability. If any section, phrase, sentence, or portion of this ordinance for any reason is held invalid or unconstitutional by an court of competent jurisdiction, such portions shall be deemed separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.
- (13) Application Form and Copy of this Ordinance. The Town Clerk shall maintain in his/her office copies of this ordinance, application forms and a form of Escrow Agreement acceptable to the Town.

17.08 INDUSTRIAL DISTRICT (IND). In the Industrial District no building shall hereafter be erected or structurally altered, unless otherwise provided in this chapter, except for one or more of the following uses:

- (1) Any use permitted in the Commercial District.
- (2) Any light or heavy industrial plants.

17.085 LIGHT INDUSTRY DISTRICT (LI). (Cr. 2/17/97)

- (1) PURPOSE. The purpose of the Light Industry District is to delineate areas best suited for light industrial development because of location, topography, existing facilities and relationship to other land uses. The purpose of the LI District is as follows:
 - (a) To provide for limited, low impact manufacturing, assembly, warehousing, storage, contracting, and maintenance use which may not require municipal services or significant transportation improvements, and which provide services and facilities required by the local area.
 - (b) To establish conditions and restrictions for such uses.
 - (c) To identify select locations in the Town of River Falls which have capacity for consolidation, expansion and start-up of light industrial uses in those sites where transportation and other necessary services can best be provided to foster high quality development. Such appropriate locations may include intersections of major county roads and sites along state highways. The LI District is not intended to be used for spot zones accommodating small, individual sites of new or existing uses in dispersed locations.
- (2) PERMITTED USES. Principal permitted uses in the LI District.
 - (a) Light Industry. Light industry as defined means the assembly or manufacturing of goods from component parts which shall not include basic industrial or heavy industrial processes such as metal foundries, metal plating, thermoforming of plastics, blending or formulation of fuels or other hazardous

substances, extensive painting or coating of products which would require a spray booth, waterwall, drying oven or apparatus, or any process or activity which involves hazardous materials, produces hazardous wastes, produces excessive noise, creates air or water emissions requiring pretreatment, special treatment or pollution control devices, produces odors detectable in the ambient outdoor air, or which causes any other condition or nuisance which impairs the full use of neighboring properties.

1. All operations must take place in buildings.
 2. Outside storage of materials or products shall be screened from public right-of-way except where such right-of way, is an internal street in the LI District.
 3. Screening with natural vegetation or fencing as approved by the Plan Commission shall be provided along property lines bordering R-1, R-2, A-1, A-2, or C-1 Districts.
- (b) Commercial storage facilities which for the purposes of this section shall be defined as indoor storage of customer's items within partitioned buildings with individual access to each partitioned area. Commercial storage shall be subject to the following conditions in addition to all other applicable requirements of this ordinance.
1. All one-way driveways shall provide for one 10 ft. wide parking lane and one 15 ft. wide travel lane. All two-way drives shall provide one 10 ft. wide parking lane and two 12 ft. travel lanes. The parking lanes may be eliminated when the driveway does not serve storage cubicles.
 2. Commercial storage facilities shall not be used for non storage activities.
 3. Outside storage shall be prohibited.
 4. Lighting shall be shielded to prevent direct illumination of adjacent properties not in the IND or LI Districts, or public rights of way.
 5. Screening with natural vegetation or fencing as approved by the Plan Commission shall be provided along property lines bordering R-1, R-2, A-1, A-2, or C-1 Districts.
 6. All non-paved surfaces shall be kept in a dust-free condition.
- (c) Trade or Contractor's shops, including such uses as plumbing, electrical, painting, heating and air conditioning contractors, excavators, carpenters, wastewater system contractors, and well drillers, whose primary work is performed off premises, subject to the following:

1. Outside storage of equipment or goods shall not be permitted.
 2. Uses shall not include the manufacturing or fabrication of any goods or use of any processes except as allowed under the definition of light industry.
 3. Screening with natural vegetation or fencing as approved by the Plan Commission shall be provided along property lines bordering R-1, R-2, A-1, A-2, or C-1 Districts.
- (d) Warehousing and storage, which, for the purposes of this section is defined as the holding of packaged, or wholly or partially finished materials, goods, or products within an enclosed building. Examples of such uses include wholesale establishments, storage wherein customers do not have individual access to storage cubicles, and boat or vehicle storage. Inside storage shall be subject to the following limitations:
1. All structures shall be on concrete slabs.
 2. All truck parking and loading areas shall be paved.
 3. The number of trucks parked outside on the site shall not exceed the number of loading bays, and all such trucks shall be engaged in the transshipment of goods or materials. Any truck not engaged in transshipment shall be inside.
 4. Screening with natural vegetation or fencing, as approved by the Plan Commission, shall be provided along property lines bordering R-1, R-2, A-1, A-2, or C-1 Districts.
- (e) Indoor maintenance, which for the purpose of this section shall include the repair or goods and equipment, such as automobile body shops, boat repair and service, electronics maintenance and repair. Indoor maintenance shall not include auto, boat, or vehicle sales. Indoor maintenance uses shall be subject to the following limitations:
1. All operations, except loading, shall be in an enclosed building.
 2. The rebuilding or assembly of automobiles, engines, transmissions on a factory basis, and/or disassembly of automobiles shall not be permitted except in the IND District.
 3. All damaged or inoperable goods and equipment shall be stored indoors.
 4. Outside storage of inoperable vehicles other than those delivered for the immediate service (within 72 hours) shall not be permitted. Storage of operable vehicles for more than 5 days shall not be permitted. All

permitted storage of vehicles for repair shall be behind the building setback line.

5. Screening with natural vegetation or fencing as approved by the Plan Commission shall be provided along property lines bordering R-1, R-2, A-1, A-2, or C-1 Districts.

- (f) Recycling and Non-Hazardous/Non-Toxic/Non-Organic Waste Recovery Facilities, provided:

1. All activities are conducted indoors.
2. Outside storage of goods or equipment is not permitted.
3. Screening with natural vegetation or fencing as approved by the Plan Commission shall be provided along property lines bordering R-1, R-2, A-1, A-2, or C-1 Districts.

- (3) ACCESSORY USES. Accessory uses in the LI District shall be:

- (a) On-site parking and loading.

- (b) Office associated with principal use, and housed in the same building as the principal use.

- (c) Sales incidental to manufacturing, provided that:

1. No more that 15% of the principal building is used for sales purposes.
2. No outside display of materials or products is permitted, except as part of a permitted sign.
3. Only products manufactured on the site, or installed on the site as part of indoor maintenance activities, may be sold.

- (d) Storage buildings customarily accessory to permitted principal uses, provided that storage buildings meet all requirements for principal buildings.

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

- (4) **CONDITIONAL USES.** Conditional uses in the LI District shall be:
- (a) Any building or combination of buildings greater than 15,000 sq. ft. in footprint area.
 - (b) Bulk material storage and distribution, which for the purpose of this section, shall be defined as the holding of bulk raw materials and products for distribution and use off the premises. Examples of such uses include propane and fuel oil distributorships, fertilizer distributorships, grain elevators and bins.
- (5) **SITE PLAN APPROVAL.** All new construction or additions to existing buildings shall comply with the site plan requirements of §14.05(3).
- (6) **LOT AND BUILDING SPECIFICATIONS.** Lot and building specifications in the LI District shall be as follows:
- (a) Minimum lot area, 20,000 sq. ft. if served by public sewer, 1.0 acres (43,560 square feet) if not;
 - (b) Setbacks (minimum):
 - 1. Front: 42 feet from road right of way.
 - 2. Rear: 40 feet where adjacent to R-1 and R-2 zoning districts, 10 feet otherwise.
 - 3. Side: 40 feet where adjacent to R-1, R-2, A-1 and A-2 zoning districts, 10 feet otherwise.
 - 4. Setbacks from roads and navigable water shall be as established in Sections 240.27 and 240.28, Pierce County Code, which are hereby adopted by reference.
 - (c) Building height: 35 feet maximum
 - (d) No driveway shall be permitted on a slope greater than 8%.

17.09 BOARD OF APPEALS.

- (1) **ESTABLISHED.** A Board of Appeals is hereby established. The Board of Appeals shall consist of 5 members appointed by the Town Board for 3 year terms. The members shall serve without compensation and shall be removable by the Town Board for cause upon written charges and after public hearing. The Town Board shall designate one of the members chairman. The

Board of Appeals may employ a secretary and other employees. The Town Board shall appoint an alternate member who shall act with full power only when a member of the Board of Appeals refuses to vote because of interest. Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

(2) RULES OF CONDUCT.

- (a) The Board of Appeals shall adopt rules for its government and procedure. Meetings of the Board of Appeals shall be held at the call of the Chairman and at such other times as the Board of Appeals may determine. The Chairman or in his absence the acting chairman may administer oaths and compel the attendance of witnesses. All meetings shall be open to the public.
- (b) The Board of Appeals shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact, and shall keep records of its examinations and other official actions, all of which shall be immediately filed in the office of the Board of Appeals and shall be a public record.
- (c) Appeals to the Board of Appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the Town affected by any decision of the administrative officers. Such appeal shall be taken within a reasonable time as provided by the rules of the Board of Appeals by filing with the officers from whom the appeal is taken and with the Board of Appeals a notice of appeal specifying the grounds thereof. The officers from whom the appeal is taken shall immediately transmit to the Board of Appeals all the papers constituting the record upon which the action appealed from was taken. The Board of Appeals shall fix a reasonable time for the hearing of appeals and give public notice thereof as well as due notice to the parties in interest and shall decide the same within a reasonable time.
- (d) In rendering decisions the Board of Appeals shall do so in writing together with findings of facts and reasons. (Cr. 10/19/98)

(3) POWERS OF THE BOARD. The Board of Appeals shall have the following powers:

- (a) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter.
- (b) To hear and decide special exceptions to the terms of this chapter upon which the Board of Appeals is required to pass.
- (c) To authorize upon appeal in specific cases such variance from the terms of

this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement will result in practical difficulty or unnecessary hardship, so that the spirit of the chapter shall be observed, public safety and welfare secured and substantial justice done.

- (d) (Am. 10/17/05). The Board of Appeals may reverse or affirm wholly or in part or may modify any order, requirement, decision or determination appealed from and make such order, requirement, decision or determination as in its opinion ought to be made in the premises and to that end shall have all the powers of the administrative official. The concurring vote of 4 (four) members of the Board of Appeals shall be necessary to reverse any order, requirement, decision or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to effect any variation in the requirement of this chapter.

17.095 POWERS OF THE PLAN COMMISSION

- (1) To grant a permit for the extension of a district boundary for a district of not more than 25' ft. where the boundary of a district divides a lot in a single ownership at the time of the adoption of this chapter. (Rn. 10/19/98)
- (2) By conditional use permit, after due notice and public hearing, recommend the location of any of the following buildings or uses in any district from which they are excluded by this chapter, provided that such building or use shall comply with all other regulations in the district in which it is proposed to be relocated: (Rn. & Am. 10/19/98; Am. 8/4/03; Am. 10/17/05)
 - (a) Nurseries and greenhouses for the propagation and cultivation of plants.
 - (b) Private clubs and lodges, excepting those the chief activity of which is a service customarily carried on as a business. However, no conditional conditional use permit for a private club or lodge shall be issued in the Exclusive Agricultural Zoning District. (Am. #1990-4)
 - (c) Hospital and clinics.
 - (d) Institutions of a philanthropic (charitable) or eleemosynary (generous) nature. (Am. 10/19/98)
 - (e) Cemeteries.
 - (f) Churches. (Cr. 10/19/98)
 - (g) Public utilities and private towers. (Cr. 10/19/98)
 - (h) Government offices and the like. (Cr. 10/19/98)

- (3) On passing upon the above uses, the Plan Commission and the Town Board may establish adequate safeguards and conditions in harmony with the terms of this chapter, particularly as they apply to structures of a height and bulk greater than the normal standards of the district in which the proposed use may be located. (Rn. & Am. 10/19/98)
- (4) Interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the master plan as shown on the district zoning map. (Rn. & Am. 10/19/98)

17.10 CHANGES AND AMENDMENTS. (Am 2/5/07)

- (1) The Town Board may from time to time on its own motion or petition appeal a decision of the Zoning Administrator to the Board of Appeals and amend, supplement or change the district boundaries, the zoning map or the regulations herein or subsequently established. Any petition or motion for change in zoning district or change or amendment of this chapter shall be heard by the Town Board after recommendation of the Plan Commission, noticed by three (3) publications in a newspaper likely to give notice in the area, one to be at least 18 days, one to be at least 11 days and one to be at least 4 days prior to such hearing. Any appeal for variance or permit made to the Board of Appeals or the Plan Commission shall be heard at a public hearing, noticed by one publication at least 4 days prior to such hearing. Where the matter petitioned or appealed involves one parcel or lot, notice of the hearing and its subject matter shall be mailed by the Town Clerk to at least one of the record owners of each parcel or lot abutting the subject premises and any other party in interest.
- (2) In case of protest against such change signed and acknowledged by the owners of 20% or more either of the areas of land included in such proposed amendment, supplement or change or by the owners of 20% or more of the land directly opposite thereto extending 100' from the street frontage of such opposite land, such amendment, supplement or change shall not become effective except by the favorable vote of 2/3 of the members of the Town Board.

17.11 ZONING ADMINISTRATOR. (Cr. #1990-4)

- (1) **APPOINTMENT.** The office of Town Zoning Administrator is hereby created. The Zoning Administrator shall be appointed by the Town Board and shall serve such term as is designated by the Board.
- (2) **PERMIT REQUIRED.** Every person or entity desiring to build a structure on any premises in the Town or to structurally alter a structure in the Town where the value of construction or improvement exceeds \$500 and every person desiring to change the use of a premises, change the zoning or use designation of a premises or obtain a conditional use permit shall first make application to the Zoning Administrator for a conditional use permit. No construction, structural

alteration or change in such use shall be commenced or effected without first receiving approval and written permit therefor from the Zoning Administrator and, where also necessary, from the Plan Commission or Board of Appeals, or Town Board.

(3) FEES.

(a) (Am. 6/19/95) The application for a use permit shall be accompanied by a nonrefundable application fee to be set by the Town Board.

(b) In addition to the foregoing fees, where publication of notice of a meeting is required, the permit applicant shall pay for any such publication.

(4) APPLICATION.

(a) Form. The application shall be on forms designated by the Zoning Administrator, signed by the applicant and accompanied by a location sketch in duplicate showing the location; actual shape and dimensions of the lot to be built upon; the exact size and location on the lot of the proposed or existing building and accessory building or buildings; the lines within which the building or buildings shall be erected, altered or moved; the existing or intended use of each building or part of a building; the number of families the main building is intended to accommodate; and such other information with regard to the structure or structures, the lot and neighboring lots or buildings as may be deemed necessary to determine and provide for the enforcement of this chapter.

(b) Dimensions, Stakes. Where the lot is 2 acres or less in area, all dimensions shown relating to the location and size of the lot shall be based upon actual survey. The lot and the location of the structures thereon shall be staked out on the ground before construction is started. The responsibility for the accuracy and location of such stakes shall be the applicant's.

(5) ISSUANCE.

(a) Time Limit. The decision of the Zoning Administrator shall be made not more than 10 days subsequent to proper application having been made. The decision of the Zoning Administrator shall be made in writing. The applicant shall be notified of the decision of the Zoning Administrator.

(b) Plan Commission Approval. (Am. 6/17/02) In the event a structure, whether principal or accessory, exceeds the value set by the Town Board from time to time, then the application for zoning permits shall be first submitted to the Plan Commission for their review and approval. After review by the Plan Commission, the application shall be resubmitted to the Zoning Administrator for his action upon such recommendation. The Zoning Administrator shall follow the recommendation of the Plan Commission.

- (c) **Prior Approval.** Where preliminary approval is first required from the Board of Appeals, Plan Commission or Town Board, the Zoning Administrator shall direct the application to the appropriate body and the application shall be considered by the Zoning Administrator subsequent to approval from the preliminary reviewing Board or Commission, in which event the determination of the Zoning Administrator shall be made within 10 days of his receipt of the determination by such Board or Commission.

- (6) **EXPIRATION.** Any use permit issued for a structural alteration or new structure shall expire and become null and void, unless substantial construction has begun within 6 months of the date of issue and, in any case, such permit shall expire 2 years from the date of issue. Substantial construction of a new structure requires at minimum substantial excavation and placement of footings. Substantial construction of an alteration requires at minimum substantial change in the structure or use to be altered. All construction of exterior or structural members shall be completed within one year from date of issue. Items to be completed include finished interior walls, plumbing, electrical and heat systems, windows, interior and exterior doors, kitchen cabinetry and steps and stoops.

- (7) **INTERPRETATION.**
 - (a) **Strict Interpretation.** The Zoning Administrator shall strictly interpret the provisions of this chapter in considering any application for a use permit.

 - (b) **Conditional Use Permits.**(Am. 10/17/05). Consistent with the declared purposes of this chapter, the desire for compatibility of uses within the Town and respective zoning districts, the protection of the safety, health, general welfare and comfort of the public, conditional use permits may be issued by the Town Board.

- (8) **ENFORCEMENT.** The Zoning Administrator is empowered with the primary responsibility to enforce the provisions of this chapter. He may advise applicants as to the provisions of this chapter and assist them in preparing applications for use permits. He shall issue use permits in connection with those applications that meet all applicable terms of this chapter. He may inspect any premises for which a use permit has been issued at reasonable times and hours.

- (9) **GENERAL POWERS, DUTIES.** The Zoning Administrator shall have the following powers to enforce the provisions of this chapter:
 - (a) Examine and approve any application pertaining to the use of land, buildings or structures to determine if the application conforms with the provisions of this chapter.

 - (b) Issue all zoning certificates and keep permanent records thereof.

- (c) Conduct inspections of buildings, structures and uses of land to determine their compliance with this chapter.
- (d) Receive, file and forward for action all applications for appeals, variation, conditional uses and amendments to this chapter which are filed with him.
- (e) Initiate, direct and review from time to time a study of the provisions of this section and make reports of his recommendations to the Plan Commission and the Town Board not less frequently than once a year.
- (f) Revoke certificates of zoning compliance where provisions of this chapter are being violated.
- (g) Maintain permanent and current records of this chapter, including all maps, amendments, conditional uses and variations.
- (h) Provide and maintain public information relative to all matters arising out of this chapter.

(10) ASSISTANT ZONING ADMINISTRATOR (Cr. 10/18/04)

- (a) The Town Board may from time to time appoint one or more Assistant Zoning Administrators whose term shall be as prescribed by the Town Board.
- (b) The Assistant Zoning Administrator(s) shall have the following powers:
 1. In the absence or unavailability of the Zoning Administrator to perform all things which can be performed by the Zoning Administrator unless specifically limited by the Town Board.
 2. When requested by the Zoning Administrator, to assist the Zoning Administrator in the enforcement of this chapter.
 3. When requested by the Zoning Administrator, Plan Commission or Town Board, to assist in planning and subdivision and plat review under Chapter 18.”

Transferred to Chap 21

17.125 CLEAN FILL SITES. (Cr. 12/7/98)

- (1) The purpose of this section is to regulate and control the management of clean fill disposal sites within the Town so as to protect the health, safety and welfare of the public.
- (2) DEFINITIONS. Whenever any of the following terms are used in this section, such terms shall be deemed and construed to have the meaning ascribed to them as follows:
 - (a) CLEAN FILL means clean soil, brick, building stone, concrete, reinforced concrete, and broken pavement.
 - (b) CLEAN FILL DISPOSAL SITE means a site used only to dispose of clean fill of 1000 or more cubic yards.
- (3) REQUIREMENTS FOR CLEAN FILL DISPOSAL SITES.
 - (a) Where Permitted. In Farmland Preservation or Ag Residential zoned districts with a conditional use permit.
 - (b) Application. The application for a conditional use permit for the clean fill disposal site shall include, but not be limited, to the following:
 1. Location, size and ownership of land upon which the operation will be situated.
 2. Complete construction site plan as applied in §17.035 and erosion control plan as applied in Storm Water Management in Chapter 21, along with proposed operating procedures for the operation, including but not limited to fill volume and type of fill.
 3. A topographic map of the site showing existing contours with minimum vertical contour intervals of five feet, trees, proposed and existing access roads and buildings, the area and dimensions of the proposed fill site(s) and distances to buildings, lot lines, existing wells, and/or other utilities.
 4. The restoration plan provided by the applicant shall contain at minimum, final slopes, extent of fill area, grading, seeding and mulching, depth and type of final cover, surface water runoff control, erosion control, restoration commencement and completion dates. The applicant shall furnish the necessary fees to provide for the inspection and administrative costs and the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The amount of such sureties shall be based upon cost estimates prepared by the

engineer and the form and type of such sureties shall be approved by the Town's legal counsel.

5. Copies of all application documents submitted to any other governmental agency for permitting purposes.
6. An affidavit from the landowner giving the agent permission to conduct the operation on the landowner's property, plus a copy of the contractor's Disposal Agreement.
7. An affidavit from the Town Zoning Administrator showing that approval has been granted by the Recycling Committee and the Plan Commission.
8. Notification of all residents within ¼ mile of the site to include:
 - a. A copy of the application.
 - b. Dates and times of public hearings.

(c) Other Requirements.

1. Screening. Enclosure (fencing) regulations, other restrictions and inspection costs shall be as set forth by the Town Board.
2. Inspection. Before final placement of material the Town Board or its agent shall inspect the clean fill.
3. The clean fill disposal site condition use permit shall be in effect for a period not to exceed two years and may be renewed upon application for a period not to exceed two years. Modification or additional conditions may be imposed upon application for renewal by the Town Board.

(d) Conditional Use Permit Application Review.

1. Town representatives shall particularly consider the effect of the proposed operation upon existing streets, neighboring development, proposed land use, drainage, water supply, soil erosion, natural beauty, character, and land value of the locality and shall also consider the practicality of the proposed restoration plan for site.
2. The Recycling Committee shall review each application so a recommendation can be made to the Plan Commission and the Town Board. The Plan Commission and Town Board shall hold public hearings. Upon completion of a review and the public hearing the Plan Commission shall make a recommendation to the Town Board.
3. Subject to completeness of the data submitted and conformity of the

proposed clean fill disposal site with all applicable ordinance and regulations, the Town Board shall be empowered to grant a clean fill disposal site permit. At the same time that an application is submitted, or renewed, the applicant shall pay a non-refundable permit fee to be established by the Town Board.

17.13 SIGN REGULATIONS. (Cr. #1993-1; Rn. from §12.07 10/19/98)

- (1) **PURPOSE.** These provisions are intended to lessen threats to public safety from poorly constructed and maintained signs; to insure compatibility of location, size and placement of signs; to protect against hazards to vehicular traffic movements through improper placements of signs, along all federal, state, county and Town roads; and to preserve the natural beauty and attractiveness of the Town.
- (2) **DEFINITIONS.** Whenever any of the following terms are used in this section, such terms shall be deemed and construed to have the meaning ascribed to them as follows:

BILLBOARD. A sign structure which directs attention to a business, commodity, service, activity or entertainment which may be, but is not necessarily, conducted or offered upon the premises where the structure is located.

SIGN EXPOSURE OR SURFACE AREA. The area enclosed by the outer extremities of all letters, characters or delineations used for purposes to attract attention to a given sign. A display surface shall not include support or devices used to attach the sign to another structure. In addition one face of a double-faced sign shall be considered in determining tile display surface area.

ERECT. To build, construct, attach, place, suspend or affix a sign to another structure.

NONCONFORMING SIGN. A sign which existed on April 19, 1993 which does not comply with the terms of this section.

SIGN. Any words, letters, figures, numerals, phrases, trade names or trademarks by which anything is made known and which are used to advertise or promote an individual, firm, association, corporation, professional business, commodity or product and which are visible from any public street or right-of-way.

SIGN, ADVERTISING. A sign which directs attention to a business, commodity, service, activity or entertainment which may be, but is not necessarily, conducted, sold or offered upon the premises where such signs are located.

SIGN, POLITICAL CAMPAIGN. Any sign urging the election or defeat of a candidate seeking any elective office, or urging the passage or defeat of any ballot measure, but not including any billboard owned or maintained by a commercial firm or advertising company.

SIGN, PORTABLE. A sign that is to be displayed only during business hours, which is not permanently attached to the ground or a building, which is no larger than 32 sq. ft., and is of an "A" frame, hinged or sandwich type design.

SIGN, PYLON. A freestanding sign erected upon a single pylon or post which is in excess of 10 ft. in height.

SIGN, TEMPORARY. A sign that is to be displayed only for a short time which isn't permanently attached to the ground or a building, which is larger than 32 sq. ft. and which doesn't fit the definition of a portable sign. For purposes of this section, permanently attached includes such means of attachment as bolts, concrete footing or foundation or similar such devises. All signs on wheels are temporary signs; temporary signs shall not include real estate signs and political campaign signs.

ON-PROPERTY SIGN. A sign advertising activity conducted on the property on which it is located; includes a sign which identifies the establishment's principal product or services offered on the premises.

FARM SIGN. A sign located on farm property which identifies the farm or its products produced on that farm.

(3) **GENERAL PROVISIONS.**

(a) **Permit Required.** No person shall erect or maintain any sign without first obtaining a permit, except no permit is required for the following signs provided they otherwise comply with the requirements of this section:

1. Political campaign signs
2. Real estate "FOR SALE"
3. Memorials embedded in another structure
4. Holiday and celebration
5. Traffic control and other Town regulatory and information
6. Park
7. Advertising for one time functions and sales held by private individuals and nonprofit organizations such as auctions or yard or garage sales

8. Signs advertising a rural home occupation or home professional office as defined in §17.01(3) of this General Code.

9. Farm sign which:

- a. Conforms with on-property sign criteria;
- b. Does not contain flashing lights, moving parts or in any other way fails to conform to these regulations;
- c. Is not erected in a location where it constitutes a traffic hazard.

10. Church or religious signs

11. Subdivision signs placed in front of an entrance

(b) Prohibited Signs. Signs shall not be permitted which:

1. Obstruct vehicular or pedestrian movement in any way;
2. Would tend by location, color or nature, to be confused with or obstruct traffic signs or devices;
3. Are pylon signs;
4. Are erected in any road right-of-way;
5. Any billboard sign structure larger than a permitted sign.

(4) UNSAFE AND UNLAWFUL SIGNS. If the Town Board or Designated Administrator finds that any sign or other similar device regulated by this section is unsafe, insecure, unlawful or is a menace to the public, he shall give written notice to the permittee or property owner thereof. If the permittee or property owner fails to remove or alter the sign so as to comply with the provisions of this section within 10 (ten) days after the receipt of such written notice, the Town Board or Designated Administrator may have such sign removed at the permittee's or property owner's expense. If the Town Board or Designated Administrator shall determine any sign is an immediate peril to the public, such sign may be removed summarily and without notice. Cost of this immediate action shall be the responsibility of the permittee or property owner. The cost of removal under this paragraph shall be assessed as a special lien against the premises upon which the sign is located.

(5) TEMPORARY AND PORTABLE SIGNS.

- (a) Each business shall be permitted one portable and one permanent sign.
- (b) Portable signs shall not exceed a height of 3 ft. or exceed sign exposure of 32 sq. ft.
- (c) One temporary sign shall be permitted per business for not more than 30 days during a calendar year and have a sign exposure no greater than 32 sq. ft.
- (d) A permit may be issued for a temporary sign when a business is disrupted due to public construction for a suitable period in addition to the allowable 30 days.

(6) APPLICATION PROCESS.

- (a) Application for a sign permit shall be made to the Town Board or Designated Administrator and shall provide the following information:
 - 1. Name, address and telephone number of applicant;
 - 2. Location of the building structure or lot upon which the sign is to be attached or located;
 - 3. Name of person, firm or agent erecting the sign
 - 4. Written consent of the owner of the building structure or land upon which the sign is to be erected;
 - 5. Size of the sign's display surface material of which the sign is to be constructed and the nature of the information to be displayed on the sign.
- (b) (Am. 8/21/95) The Town Board shall from time to time set the fee which must accompany each application for a sign permit.
- (c) Signs must be erected within 6 months from the date of issuance of the permit or the permit shall be void.
- (d) Any permit for a sign issued under this section shall remain in effect for a period of 7 years. Upon expiration of any sign permit an application can be made for a new permit. The application shall be subject to the rules and regulations of this section, as well as any other

regulations or ordinances of the Town, as are then in force.

(7) SIGN REGULATIONS.

- (a) Each property or activity is permitted no more than 64 sq. ft. of sign exposure visible and designed to be read from public street or right-of-way and no one side exposure be larger than 32 sq. ft.
- (b) In addition to any sign permitted, a property may be permitted one sign with no more than 32 sq. ft. exposure located on a building in which the advertised activity is primarily conducted or managed. All signs located on or within the profile of the building in which the advertised activity is primarily conducted or managed shall be considered as one sign.
- (c) In addition to any sign permitted in this section, an activity may be permitted any number of signs not designed to be read from the road and not exceeding 50 sq. ft. in aggregate area. The purpose of these signs shall be to direct or control traffic, and inform the hours the activity is in operation, when entering the property on which the activity is conducted.
- (d) No sign exposure may exceed 32 sq. ft. in area. Signs shall have maximum height of 10' and a maximum length of 8 ft. inclusive of any border and trim but excluding the brace or apron supports and other structural member.
- (e) Signs which contain, include; or are illuminated by any flashing or some type of light are prohibited, except those giving only public service information such as time, date or temperature. Signs shall be spaced so that along roads or highways no 2 (two) signs shall be spaced less than 600 ft. apart.
- (f) Signs may be illuminated subject to the following:
 - 1. Signs which are not effectively shielded to cause glare or to impair the vision of the driver's operation of any motor vehicle are prohibited.
 - 2. No sign may be so illuminated as to interfere with effectiveness of or obscure an official

traffic sign device or signal.

- (g) Signs shall not be erected or maintained upon trees or painted or drawn upon rocks or other natural features, except state, county or local landmark signs.
- (8) **POLITICAL CAMPAIGN SIGNS.** It shall be the responsibility of the candidate or his designer, and the property owner, to insure that political campaign signs are installed in compliance with these regulations:
- (a) No permit shall be required for installation of a political campaign sign.
 - (b) All political campaign signs shall be erected on private property
 - (c) All political campaign signs shall be removed within 72 hours following the election in which the campaign was intended.
 - (d) No political campaign sign shall be installed within the Town more than 70 days prior to the election.
 - (e) All political campaign signs shall be installed with the use of staking or other similar independent devices. No political campaign sign shall be attached to trees, poles, traffic or natural structures.
- (9) **NONCONFORMING SIGNS.**
- (a) A nonconforming sign shall be allowed to continue in use but shall not be enlarged, replaced, relocated or altered, except to change message or content of the sign, without being brought into compliance with requirements of the section.
 - (b) Whenever a nonconforming sign is altered, repaired or damaged by fire, explosion, wind, accident or other event in excess of 50% of it's market value, it shall not be altered, repaired or replaced unless the replacement sign complies with the provisions of this section.
 - (c) Nothing in the provisions of this section shall be construed as prohibiting routine repair and maintenance of any sign.
- (10) **ENFORCEMENT AND ADMINISTRATION.**
- (a) The Town Board shall have primary responsibility for the enforcement of these sign regulations and the issuance of sign permits.
 - (b) It shall be the responsibility of the Town Board or Designated Administrator

to inspect the erection of signs and assure that all signs are in compliance with the requirements of this and any other appropriate rules, regulations and ordinances of the Town.

17.14 ADULT ESTABLISHMENTS (Cr. 10/17/05)

(1) PURPOSE.

- (a) To create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses so as to ameliorate the negative secondary effects of adult uses while providing adult establishments sufficient area and opportunity to operate within the Town so as not to suppress their existence.

(2) DEFINITIONS.

- (a) ADULT ESTABLISHMENT. Shall include, adult book stores, adult motion picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.
- (b) ADULT BOOKSTORE. Means an establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
- (c) ADULT ENTERTAINMENT. Any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
- (d) ADULT MOTION PICTURE THEATER. Any establishment for the presentation of motion pictures that as its dominant theme, or distinguished or characterized by an emphasis on, matters depicting, describing or relating to specified sexual activities, or specified anatomical areas for observations by patrons therein.
- (e) ADULT NOVELTY STORE. Any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting,

describing or relating to specified anatomical areas or specified sexual activities.

(f) SPECIFIED ANATOMICAL AREAS. Means either:

1. Less than completely and opaquely covered human genitals pubic region.
2. Human male genitals in a discernible turgid state, even if opaquely covered.
3. Less than completely and opaquely covered nipples or areolas of the human female breast.

(g) SPECIFIED SEXUAL ACTIVITIES. Means simulated or actual:

1. Showing of human genitals in a state of sexual stimulation or arousal; or
2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.

(h) SUBSTANTIAL. Forty percent (40%) or more of a business stock in trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is in excess of the forty percent (40%) threshold, that entity shall provide all necessary records, receipts and documentation to the Town upon request. Failure to do so shall result in a presumption that the entity is operating in excess of the threshold.

(3) LOCATION.

(a) No adult establishment shall be located:

1. Within any zoning district other than general commercial and industrial districts.
2. Within 1320 feet of an existing adult establishment.
3. Within 1320 feet of any lot with a residential dwelling.
4. Within 2640 feet of any preexisting school, church or daycare.
5. Within 1320 feet of any preexisting establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor.

(b) For purposes of this section, distances are to be measured in straight line, without regard to intervening structures or objects, from the property line of the adult establishment, to the nearest property line of another adult establishment, dwelling, school, church, daycare or establishment selling of dispensing fermented malt beverages of intoxicating liquor.

(4) HOURS OF OPERATION

(a) No adult establishment shall be open between the hours of 2:00 a.m. and 12:00 noon, Monday through Friday, between the hours of 2:30 a.m. and 12:00 noon on Saturdays, or on Sundays.

(b) All adult establishments shall be open to inspection at all reasonable times by the police department and the code enforcement officer.

(5) SIGN REGULATIONS.

(a) See §17.13.

(6) SEVERABILITY. If any section of this ordinance is found to be unconstitutional or otherwise invalid, the validity of the remaining sections shall not be affected.

17.15 VIOLATION AND PENALTIES. Any person found to be in violation of any provision of this chapter shall be subject to a penalty as provided in 25.04 of this General Code.