

TOWN OF HORTONIA

ZONING ORDINANCE

DRAFT

AUGUST 6, 1996

* NOTE: Recommended revisions (other than additions to the Definitions section) appear in **BOLD** font throughout the document.

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TABLE OF CONTENTS

| | | |
|----------------|---|-----------|
| 1.01 | INTRODUCTION | 1 |
| | (1) Applicability | 1 |
| | (2) Purpose | 1 |
| 1.02 | GENERAL PROVISIONS | 2 |
| | (1) Establishment of Districts | 2 |
| | (2) Establishment of Zoning Map | 2 |
| | (3) Interpretation of District Boundaries | 2 |
| | (4) Application of Regulations | 2 |
| | (5) County Shoreland-Floodplain-Wetland Ordinance | 3 |
| | (6) Interpretation..... | 3 |
| | (7) Severability | 4 |
| 1.03 | DEFINITION OF TERMS | 5 |
| | (1) General | 5 |
| | (2) Definition of Terms | 5 |
| 1.04 | NONCONFORMITIES | 31 |
| | (1) Applicability and Intent..... | 31 |
| | (2) Nonconforming Uses of Land (Or Land with Minor Structures Only) | 31 |
| | (3) Nonconforming Uses of Structures | 31 |
| | (4) Nonconforming Structure..... | 32 |
| | (5) Nonconforming Characteristics of Use | 32 |
| | (6) Nonconforming Lots of Record | 33 |
| | (7) Nonconforming Signs | 33 |
| | (8) Casual, Temporary, or Illegal Use | 33 |
| | (9) Repairs and Maintenance..... | 33 |
| | (10) Conditional Uses..... | 33 |
| 1.05 | SCHEDULE OF DISTRICT REGULATIONS | 34 |
| | (1) Interpretation and Organization | 34 |
| 1.05(2) | A-1 PRIME AGRICULTURAL DISTRICT | 35 |
| 1.05(3) | A-2 GENERAL AGRICULTURAL DISTRICT | 43 |

| | | |
|-----------------|---|------------|
| 1.05(4) | RE RURAL ESTATE DISTRICT | 46 |
| 1.05(5) | TRD TRANSITIONAL RESIDENTIAL DISTRICT | 50 |
| 1.05(6) | R-1 RESIDENTIAL DISTRICT..... | 55 |
| 1.05(7) | M-H MOBILE HOME DISTRICT | 58 |
| 1.05(8) | C-1 COMMERCIAL DISTRICT | 66 |
| 1.05(9) | I INDUSTRIAL DISTRICT..... | 63 |
| 1.05(10) | CRITICAL AREAS OVERLAY DISTRICT | 65 |
| 1.05(11) | HIGHWAY COMMERCIAL OVERLAY DISTRICT | 72 |
| 1.06 | SUPPLEMENTARY DISTRICT REGULATIONS | 76 |
| | (1) General Application | 76 |
| | (2) Lot and Yards | 76 |
| | (3) Accessory Uses and Structures..... | 76 |
| | (4) Height Exceptions..... | 77 |
| | (5) Corner Visibility..... | 77 |
| | (6) Household Pets | 77 |
| | (7) Quarries and Gravel Pits | 77 |
| | (8) Mobile Home Park | 79 |
| | (9) Private Driveways | 80 |
| | (10) Parking and Loading..... | 80 |
| | (11) Planned Unit Development..... | 85 |
| | (12) Signs..... | 88 |
| | (13) Wireless Communications Towers | 94 |
| 1.07 | BUILDING PERMITS | 103 |
| | (1) Applicability..... | 103 |
| | (2) Application for Building Permit..... | 103 |
| | (3) Approval and Issuance of Building Permit..... | 103 |
| | (4) Construction to be as Provided in Applications..... | 103 |
| | (5) Lapse of Permit | 103 |
| | (6) Improper Issuance | 104 |
| | (7) Prior Permits | 104 |

| | | |
|-------------|--|------------|
| 1.08 | CONDITIONAL USES..... | 105 |
| | (1) General..... | 105 |
| | (2) Procedure..... | 105 |
| | (3) Public Hearing..... | 105 |
| | (4) Conditions and Safeguards..... | 105 |
| | (5) Records and Decisions..... | 105 |
| | (6) Conditional Uses & Structures in the A-1 District..... | 106 |
| 1.09 | ADMINISTRATION AND ENFORCEMENT | 107 |
| | (1) Town Building Inspector..... | 107 |
| | (2) Duties and Powers..... | 107 |
| | (3) Remedies..... | 108 |
| | (4) Penalties..... | 108 |
| | (5) Notice of Violation..... | 108 |
| 1.10 | BOARD OF APPEALS..... | 109 |
| | (1) Establishment of Board..... | 109 |
| | (2) Membership and Terms of Office..... | 109 |
| | (3) Procedures, Meetings, Records and Decisions..... | 109 |
| | (4) Appeals..... | 110 |
| | (5) Variances..... | 111 |
| | (6) Powers and Duties-Interpretations..... | 111 |
| | (7) Public Hearings..... | 111 |
| | (8) Appeals for Board Decisions..... | 112 |
| 1.11 | AMENDMENTS..... | 113 |
| | (1) Power of Amendment..... | 113 |
| | (2) Procedures..... | 113 |
| | (3) Public Hearing and Notice..... | 113 |
| | (4) Final Approval by Town Board..... | 113 |
| | (5) Map Amendments in the A-1 Prime Agricultural District..... | 113 |
| 1.12 | SITE PLAN REVIEW..... | 115 |
| | (1) Purpose..... | 115 |
| | (2) Applicability..... | 115 |
| | (3) Initiation of Process: Payment of Fee..... | 115 |
| | (4) Pre-Application Conference..... | 115 |

| | | |
|-----|-----------------------------------|-----|
| (5) | Formal Application | 116 |
| (6) | Submission Requirements | 116 |
| (7) | Procedure | 118 |
| (8) | Decision of Plan Commission | 118 |
| (9) | Criteria for Review | 119 |

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1.01 INTRODUCTION

1.01

(1) **Applicability.** This ordinance, established under Chapters 60.62 and 66.058 of the Wisconsin Statutes, shall be known as the Town of Hortonia Zoning Ordinance and shall apply to:

- (a) The regulation and restriction of the height, number of stories and size of buildings and other structures.
- (b) The percentage of lot that may be occupied.
- (c) The size of yards, courts and other open spaces.
- (d) The density of population.
- (e) The regulating of non-conforming uses.
- (f) The location and use of buildings, structures and land for trade, industry, residence or other purposes provided that there shall be no discrimination against temporary structures.

(2) **Purpose.** The purpose of this ordinance is to promote the public health, safety and general welfare of the community through provisions designed to:

- (a) Encourage the most appropriate use of the land.
- (b) Conserve the value of land and buildings.
- (c) Prevent the overcrowding of land and the congestion of streets.
- (d) Provide adequate light and air.
- (e) Secure safety from fire, panic and other dangers.
- (f) Avoid undue concentration of population.
- (g) Facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements.

1.02 GENERAL PROVISIONS

1.02

(1) **Establishment of Districts.** For the purpose of this ordinance, the Town of Hortonia is hereby divided into the following districts:

- (a) A-1 Prime Agricultural District
- (b) RE Rural Estate District
- (c) R-1 Residential District
- (d) M-H Mobile Home District
- (e) C-1 Commercial District
- (f) I Industrial District

(2) **Establishment of Zoning Map.** The location and boundaries of the districts established shall be as shown on the map entitled Official Zoning Map of the Town of Hortonia, Outagamie County, Wisconsin. The Official Zoning Map with all notations, dimensions, designations, references, and other data shall accompany and be part of this ordinance, and upon adoption shall be signed by the Town Board Chairman and attested to by the Town Clerk. Amendments to the Official Zoning Map shall be approved by the Town Board of Supervisors and shall promptly be portrayed on the Official Zoning Map. Said map shall be available for public inspection in the Town Hall.

(3) **Interpretation of District Boundaries.** Where uncertainty exists as to the boundaries of districts as shown on the Official Zoning Map, the following rules shall apply:

- (a) Boundaries as indicated as approximately following the center lines of streets, highways, alleys or a railroad right-of-way shall be construed to follow such center lines.
- (b) Boundaries as indicated as approximately following platted lot lines shall be construed as following such lot lines.
- (c) Where boundaries do not follow property lines and distances are not specified on the Official Zoning Map boundaries shall be determined by the use of the scale on the Official Zoning Map.

(4) **Application of Regulations.** The regulations set by this ordinance shall be minimum regulations and shall apply uniformly to each class or kind of structure or land, and particularly, except as hereinafter provided:

- (a) No land, building, or structure shall hereafter be used or occupied, and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with all the

regulations herein specified for the district in which it is located.

- (b) No sign shall hereafter be erected, hung, placed, painted, altered, or moved except in conformity with regulations of the district in which it is located.
- (c) No part of a yard, open space, or off-street parking space required about or in connection with any building for the purpose of complying with this ordinance shall be included as part of a yard, open space, or off-street parking space similarly required for any other building.
- (d) No lot or yard existing at the effective date of adoption of this ordinance shall be reduced in dimension or area below the minimum requirements set forth herein. Lots or yards created after the effective date of adoption of this ordinance shall meet the minimum requirements established by this ordinance.
- (e) No accessory buildings shall be constructed upon a lot until the construction of the principal building has actually commenced. No accessory building shall be used unless the principal building on the lot is also being used. No cellar or basement shall be used as a dwelling prior to substantial completion of the dwelling of which it is part.
- (f) No building shall hereafter be erected, constructed, reconstructed, moved or structurally altered on land which is not adequately drained at all times or which is subject to periodic flooding.

(5) **County Shoreland-Floodplain-Wetland Ordinance**. In addition to the regulations established herein, no land, water, building, or structure shall hereafter be used or occupied and no building, structure, or part thereof shall hereafter be erected, constructed, reconstructed, moved or structurally altered except in conformity with all the regulations established in the Shoreland-Floodplain-Wetland Ordinance, Outagamie County, Wisconsin adopted pursuant to Section 59.971 and 87.30 of the Wisconsin Statutes. The Outagamie County Shoreland-Floodplain-Wetland Ordinance is administered by Outagamie County. A permit issued under this Ordinance does not constitute any authorization under the Outagamie County Shoreland-Floodplain-Wetland Ordinance.

- (a) Low Impact Development. Applicants for rezoning or site plan review are encouraged to practice low impact development as described in “Low Impact Development Design Strategies – An Integrated Design Approach”, dated June 1999 and as it may be amended.

(6) **Interpretation**. In their interpretation and application, the provisions of this

ordinance shall be considered minimum requirements. Where the provisions of this ordinance impose greater restrictions than any statute, other regulation, ordinance, or covenant, the provisions of this ordinance shall prevail. Where the provision of any statute, other regulation, ordinance or covenant impose greater restrictions than the provisions of this ordinance, the provisions of such statute, other regulation, ordinance, or covenant shall prevail.

(7) **Severability**. It is hereby declared to be the legislative intent that should any provision of this ordinance be declared invalid by a court of competent jurisdiction, such decision shall not affect the validity of this ordinance in its entirety or any part thereof, other than that so declared to be invalid.

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1.03 DEFINITION OF TERMS

1.03

(1) **General.** For the purpose of this ordinance, the following shall apply as indicated throughout the ordinance:

- (a) The word "person" includes a firm, association, organization, partnership, trust, company or corporation as well as an individual.
- (b) The present tense includes the future tense and the singular includes the plural.
- (c) The word "shall" is mandatory; the word "may" is permissive.
- (d) The words "used" or "occupied" also mean intended, designed or arranged to be used or occupied.

(2) **Definition of Terms.** For the purpose of this ordinance, the following terms are defined:

- (a) **Accessory Use or Structure.** A use or structure on the same lot with the principal use or structure, and of a nature customarily incidental and subordinate to the principal structure. See also Use, Accessory and Use, Accessory – For A-1 Farmland Preservation District).

1. Accessory structures include, but are not limited to, the following:

- a. Detached garages
- b. Pole barns
- c. Storage sheds
- d. Gazebos and pavilions
- e. Decks
- f. Swimming pools, except portable pools
- g. Stables, pens, and other animal structures
- h. Wood-fired boilers

- i. Pump houses
- (b) **Adjacent**. Located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.
- (c) **Agricultural Use**. Any of the following activities conducted for the purpose of producing 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. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (d) **Agriculture-related Use**. A facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
 - 1. Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the Exclusive Agricultural/Farmland Preservation district.
 - 2. Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the Exclusive Agricultural/Farmland Preservation district.
 - 3. Slaughtering livestock, including livestock from farms in the

Exclusive Agricultural/Farmland Preservation district.

4. Marketing livestock to or from farms, including farms in the Exclusive Agricultural/Farmland Preservation district.
 5. Processing agricultural by-products or wastes received directly from farms, including farms in the Exclusive Agricultural/Farmland Preservation district.
- (e) **Airport**. (Public). Any airport which complies with the definition contained in Chapter 114 Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.
- (f) **Alley**. A public right-of-way which affords a secondary means of vehicular access to abutting properties. A street shall not be considered an alley.
- (g) **Alteration**. A change or rearrangement in the structural parts of a structure, an enlargement of a structure, whether by extending on the side or by increasing the height, or the movement of a structure from one location to another.
- (h) **Animal Unit, Agricultural Districts**. One cow, steer or horse; two sheep or goats; four swine; or one hundred chickens or other poultry.
- (i) **Animal Unit, Residential Districts**. See Sec. 1.05(3)(b)(5).
- (j) **Apartment**. A room or group of rooms in a multiple-family structure which is arranged, designed, used or intended to be used as a single dwelling unit, and which shall include complete kitchen facilities permanently installed. (See also dwelling unit; dwelling; multiple family).
- (k) **Aquaculture**. See fish hatchery.
- (l) **Automobile Filling Station**. Buildings and premises where gasoline, oil, grease, batteries, tires and automobile accessories and convenience retail goods may be supplied, dispensed and sold and where minor repair or maintenance work may be performed such as ignition service, tire repair, repair and replacement of minor parts such as pumps and filters and the like. A filling station is not a repair or body shop.
- (m) **Automobile Salvage Yards**. Premises used for the storing, dismantling, crushing, shredding or disassembly of used motor vehicles or their parts.

- (n) **Base Farm Tract.** Means one of the following:
1. All land, whether one parcel or 2 or more contiguous parcels, that is in a farmland preservation zoning district and that is part of a single farm on the date that the department under s. 91.36(1) first certifies the farmland preservation zoning ordinance covering the land or on an earlier date specified in the farmland preservation zoning ordinance, regardless of any subsequent changes in the size of the farm.
 2. Any other tract that the department by rule defines as a base farm tract.
- (o) **Basement.** That portion of a building that is partly or completely below grade. A basement shall be termed a cellar when more than one-half of its floor to ceiling height is below the average finished grade. A basement or cellar shall be counted as a story if it is used for living quarters. (See also cellar).
- (p) **Bed & Breakfast.** Any place of lodging that provides six (6) or fewer rooms for short-term lodging for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental and in which the only meal served to guests is breakfast. Bed and breakfast establishments shall comply with the standards of Chapter HSS 197, Wisconsin Administrative Code.
- (q) **Billboard.** An advertising sign used to advertise goods, services, establishments or organizations off the premises.
- (r) **Board of Appeals.** The Zoning Board of Appeals of the Town of Hortonia, Wisconsin.
- (s) **Boarding Houses.** An establishment where meals and lodging are provided for compensation by prearrangement other than in dwelling units, without limitation on time periods involved, and for a total of at least four or more boarders.
- (t) **Buffer.** An area within a property or site, generally adjacent to and parallel with the property line, either consisting of natural existing vegetation or created by the use of trees, shrubs, fences, an/or other berms, designed to limit continuously the view of an/or sound from the site to adjacent sites or

properties.

- (u) **Buildable Lot Area.** That portion of a lot remaining when all required yard space has been excluded.
- (v) **Building.** A structure having one or more stories and a roof which is used or intended to be used for shelter or enclosure for persons, property or animals.
- (w) **Building Height.** A building's vertical measurement, from the main level of the finished grade in front of the building to the highest point on the roof line of a flat roof or a roof having a pitch ratio of less than 1:4 from the horizontal, and to a point midway between the peak and the eaves of a roof having a pitch ratio of more than 1.4.
- (x) **Building Frontage.** The front of a building shall be construed to be the portion facing a street. For purposes of computation of the number and area of signs, the frontage of a building shall be computed as nearly at ground level as computation of horizontal distance permits. In cases where this test is indeterminate or cannot be applied, as for instance where there is a diagonal corner entrance, the Building Inspector shall select building frontage on the basis of interior layout of the building, traffic on adjacent streets or other indicators.
- (y) **Building Line.** The rear edge of any required front yard or the rear edge of any required setback line.
- (z) **Building Site.** The lot or lots or portion of a lot or lots used for a building, the total area of which lots is ascribed to the building for compliance with these zoning regulations.
- (aa) **Building, Principal.** A building in which the principal use permitted on the lot is conducted.
- (bb) **Building, Temporary.** Any building not designed to be permanently located at the place where it is, or where it is intended to be temporarily placed or affixed.
- (cc) **Bulk.** The term used to indicate the size and setback of buildings or structures, and the location of same with respect to one another, and includes the following: (a) size and height of buildings; (b) location of exterior walls; (c) floor area ratio; (d) open space allocated to buildings; and (e) lot area and lot width.

- (dd) **Campground.** An area or tract of land on which accommodations for temporary occupancy are located or may be placed, including tents and recreational vehicles, and which is primarily used for recreational purposes and retains an open air or natural character.
- (ee) **Car Wash.** An area of land and/or a structure with machine- or hand-operated facilities used principally for the cleaning, washing, polishing or waxing of motor vehicles.
- (ff) **Carport.** A roofed automobile shelter with two or more open sides.
- (gg) **Cellar.** A space having more than one-half of its floor to clear-ceiling height below average finished grade. A cellar shall be counted as a story if it is used for living quarters. (See also basement).
- (hh) **Center Line.** The point equidistant from the right-of-way lines, regardless of the location of the surfacing, pavement, roadbed or directional separator of the roadway within the right-of-way.
- (ii) **Church of Place of Religious Assembly.** A building or structure primarily used as a place where religious services, meetings or related activities of any denomination are conducted.
- (jj) **Clinic.** An office or group of offices relating to the health care professions including physicians, dentists and the like engaged in the treatment of persons.
- (kk) **Community Living Arrangement.** Facilities defined in Section 46.03 Wis. Stats.
- (ll) **Conditional Use.** A use which is necessary or desirable for the public welfare, but which is potentially incompatible with the uses normally permitted in the zoning districts established herein.
- (mm) **Contiguous.** Adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.
- (nn) **Convalescent Home and Nursing Home.** A place where regular care is

provided to three or more informed persons, children, or aged persons, who are not members of the family which resides on the premises.

- (oo) **Convenience Store.** A retail establishment where packaged and/or pre-prepared food, beverages and convenience items, and gasoline or any other motor fuels are offered for sale, but automobile maintenance services are not performed.
- (pp) **County.** Outagamie County, Wisconsin.
- (qq) **Day Care.** (Family) A place where regular day care is provided to not more than eight children and is licensed pursuant to Chapter 48 Wis. Stats. (Group). A place where regular day care is provided to nine or more children and is licensed pursuant to Chapter 48 Wis. Stats.
- (rr) **Developer's Agreement.** An agreement by which the Town and the developer agree in reasonable detail as to all of those matters to which the provisions of this Code apply and which does not come into effect unless and until an irrevocable letter of credit or other appropriate surety has been issued to the Town.
- (ss) **Development or Development Activity.** Any man-made change to improved or unimproved real estate, including but not limited to construction or additions or substantial improvements to buildings, other structures, or accessory uses, mobile homes, mining, dredging, filling, grading, paving, excavation or drilling operations, and deposition of materials.
- (tt) **Dog Kennel.** An establishment where more than 4 dogs are kept for the purpose of breeding, sale, boarding or sporting purposes.
- (uu) **Drive-In Restaurant.** Any establishment dispensing or serving food in automobiles including those establishments where customers serve themselves and may eat or drink in the building or in their automobiles on the premises.
- (vv) **Dwelling Unit.** A room or rooms connected together constituting a separate, independent housekeeping establishment for one family only, for owner occupancy or for rental, lease or other occupancy on a weekly or longer basis, physically separated from any other rooms or dwelling units, and containing independent cooking and sleeping facilities.
- (ww) **Dwelling, Single-Family Detached.** A building containing not more than one

dwelling unit, entirely separated from other buildings or structures, which is subject to the requirements of the Wisconsin Uniform Dwelling Code, Chapter 101, Wis. Stats., and Chapter ILHR 20, et seq., Wis. Admin. Code or which meets the following design criteria for the purpose of serving the value of land and buildings of the district:

1. The dwelling shall be set on a full basement or other enclosed foundation which meets the standards of Chapter ILHR 21, Wis. Admin. Code. The structure shall not rest upon a metal frame where the foundation meets the sills or floor joists. The Building Inspector may require a plan certified by a registered architect or engineer that the proposed enclosed foundation provides proper support for the structure.
2. The dwelling may not have a length to width ratio exceeding 2.5 to 1.
3. The dwelling shall have a pitch roof with a minimum slope of 4/12 and eaves extending outward a minimum of 16 inches beyond the nearest vertical wall (excluding dormers and overhangs at gable ends). On dwellings of 1½ stories or more in height or which have a roof pitch of 6/12 or more, this minimum overhand requirement may be decreased to 12 inches.

- (xx) **Dwelling, Single-Family Attached.** A building containing not more than one dwelling unit attached at the side or sides in a series or group of three or more buildings each containing not more than one dwelling unit. Each building shall be separated from the adjoining building or buildings by a party wall or walls extending from footings through roofs. The term "attached dwelling" is intended to imply townhouses, patio, or atrium houses, or any form which conforms to this definition.
- (yy) **Dwelling, Two Family.** One building containing not more than two dwelling units or two buildings, attached at the side, with not more than one dwelling unit per building. The term "two-family dwelling" is intended to imply single-family semi-detached buildings and duplexes or any form which conforms to this definition. A two-family dwelling shall meet the construction design requirements of a single-family detached dwelling in (24) above.
- (zz) **Dwelling, Multiple Family.** A building containing three or more dwelling units. The term "multi-family dwelling" shall include cooperative apartments, condominiums, apartments and the like. Regardless of how rental units are equipped, any multi-family dwelling in which units are available for rental

periods of less than one week shall be considered a motel.

- (aaa) **Dwelling, Mobile Home**. A building transportable in one or more sections, with body width exceeding eight feet or body length exceeding 32 feet, designed to be used as a single dwelling when connected to the required utilities. Any single family dwelling which is not subject to or certified under Chapter ILHR 20, Wis. Admin. Code, or which does not meet the design criteria in (25) above, shall be defined a mobile home.
- (bbb) **Election Campaign Period**. In the case of an election for office, the period beginning on the first day for circulation of nomination papers by candidates, or the first day on which candidates would circulate nomination papers were papers to be required, and ending on the day of the election. In the case of a referendum, the period beginning on the day which the question to be voted upon is submitted to the electorate and ending on the day on which the referendum is held.
- (ccc) **Encroachment**. Any fill, structure, building, use or development in the floodway.
- (ddd) **Erosion**. The detachment and movement of soil, sediment, or rock fragments by water, wind, ice, or gravity.
- (eee) **Essential Services**. Services provided by public and private utilities, necessary for the exercise of the principal use or service of the principal structure. These services include underground, surface, or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, fire alarm boxes, police call boxes, traffic signals, pumps, lift stations, and hydrants, but not including buildings.
- (fff) **Extraterritorial Area**. The area within the Town of Hortonia within 3 miles of the corporate limits of a first, second or third class city, or 1 .5 miles of a fourth class city or village (See Section 62.23 (7a), Wisconsin Statutes).
- (ggg) **Family**. One or more persons occupying a single dwelling unit, provided that unless all members are related by blood, marriage or adoption, no such family shall contain over eight persons, but further provided that group home supervisors employed on the premises may be housed on the premises without being counted as family.

- (hhh) **Fair Market Value**. Assessed value adjusted for equalized value.
- (iii) **Farm**. All land under common ownership that is primarily devoted to agricultural use. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:
1. The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
 2. A majority of the land area is in agricultural use.
- (jjj) **Farm Acreage**. The combined total acreage of all of the following in the base farm tract:
1. Farms.
 2. Open space parcels of more than 10 acres
- (kkk) **Farm Operator**. Any person who owns land and raises crops or livestock on that land or a person who rents land to another for agricultural purposes and who lives on the land having day-to-day contact with the farm operation or a person who lives on land that he has historically farmed. For the purpose of this chapter, any person who has farmed land for 5 consecutive years is deemed to have farmed it historically.
- (lll) **Farm Residence**. Any of the following structures located on a farm:
1. A single-family [or duplex] residence that is the only residential structure on the farm.
 2. A single-family [or duplex] residence that is occupied by any of the following:
 - a. An owner or operator of the farm.
 - b. A parent or child of an owner or operator of the farm.
 - c. An individual who earns more than 50 percent of his or her gross income from the farm.
 3. A migrant labor camp that is certified under s. 103.92, Wis. Stats.

- (mmm) **Farmers Market** The temporary sale of farm products at a site other than where they were grown. The sale of farm produce grown on the premises or the sale of not more than 5 bushels per day of farm produce grown off the premises is not considered a farmers market.
- (nnn) **Farmstead**. One or two single-family dwellings and related structures accessory to agricultural operations located on a single parcel of land used primarily for agriculture.
- (ooo) **Fence**. A structure, other than a building, which is a barrier and used as a boundary or means of protection or confinement.
- (ppp) **Fence, Open**. A fence including gates, at least fifty (50) percent of the surface area of which is open space to allow an unobstructed view through the fence.
- (qqq) **Fence, Solid**. A fence, including gates, which conceals from view from adjoining properties, streets, or alleys, activities conducted behind it.
- (rrr) **Fish Hatchery**. The establishment, operation, and maintenance of a facility for the purpose of breeding and propagating fish for sale, transfer, or fee fishing pursuant to Ch. 29, Wis. Stats., and Wis. Adm. Code NR 19.
- (sss) **Floor Area**. The sum of the gross horizontal area of the several floors of the building, excluding areas used for off-street parking facilities and the horizontal areas of the basement and cellar floors that are devoted exclusively to uses accessory or incidental to the operation of the entire building. All horizontal dimensions shall be taken from the exterior of the walls.
- (ttt) **Food Processing Establishments**. Commercial facilities such as canneries, cheese factories, condenseries, creameries and other such establishments for the processing, packing or manufacture of agricultural products, any portion of which are grown off-site.
- (uuu) **Frontage**. The length of any one property line of a premises, which property line abuts a legally accessible road right-of-way. For the purposes of determining yard requirements on corner lots, all sides of a lot adjacent to streets shall be considered frontage.
- (vvv) **Fur Farm**. Land, buildings or structures used for the purpose of raising or harboring fur bearing animals including those defined in Sec. 29.01 Wis.

Stats., and also including chinchillas, whether the animals are kept for breeding, slaughtering or petting.

- (www) **Game Farm.** The establishment, operation, and maintenance of a game bird or animal farm for the purpose of breeding, propagating, killing, and selling of game birds and animals pursuant to Ch. 29, Wis. Stats., and Wis. Adm. Code NR 16 and 19.
- (xxx) **Garage, Private.** An accessory building designed or used for inside parking of not more than three private motor vehicles, recreational vehicles or boats by the occupant of the principal building. A private garage attached to or a part of the main building is to be considered part of the main building.
- (yyy) **Garage, Storage.** An accessory building designed or used for the storage of more than three motor vehicles, recreational vehicles or boats.
- (zzz) **Grade.** The average of the finished ground level at the center of all walls of a building. In case walls are parallel to and within five feet of a sidewalk, the ground level shall be measured at the sidewalk.
- (aaaa) **Gross Farm Revenue.** Gross receipts from agricultural uses, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. Gross farm revenue includes receipts accruing to a renter, but does not include rent paid to the land owner.
- (bbbb) **High Water Mark.** The average annual high water level of a pond, lake, river, stream, or flowage usually distinguished by a line where the presence of water is so continuous as to leave a distinct mark by erosion, change in, or destruction of vegetation, or other easily recognized topographic, geologic, or vegetative characteristics.
- (cccc) **Home Occupation.** The term "home occupation" shall mean an occupation in a residential district conducted entirely in a dwelling unit, provided that:
1. The use of the dwelling unit for the home occupation shall be clearly incidental and subordinate to its use for residential purposes by its occupants, and shall under no circumstances change the residential character thereof.
 2. No person other than members of the family residing on the premises shall be engaged in such occupation.

3. There shall be no change in the outside appearance of the building or premises, or other visible evidence of the conduct of such home occupation other than one sign, not exceeding one square foot in area, non-illuminated, mounted flat against the wall of the principal building.
4. No home occupation shall occupy more than 25 percent of the first floor area of the residence. No home occupation shall be conducted in any accessory building or structure.
5. No traffic shall be generated by such home occupation in greater volumes than would normally be expected in a residential neighborhood, and any need for parking generated by the conduct of such home occupation shall be met off the street and other than in required front yard.
6. No equipment or process shall be used in such home occupation which creates noise, vibration, glare, fumes, odors, or electrical interference detectable to the normal senses off the lot. In the case of electrical interference, no equipment or process shall be used which creates audible or visual interference in any radio or television receivers off the premises.

(dddd) **Hotel.** An establishment where sleeping accommodations are offered to the public and intended primarily for rental to transients with daily charge, as distinguished from multi-family dwellings and boarding houses, where rentals are for periods of a week or longer and occupancy is generally by residents rather than transients. Hotels may serve meals to both occupants and others. The term "hotel" is also intended to imply motel, motor court, motor lodge, tourist court or any form which conforms to this definition.

(eeee) **Junk.** Any scrap, waste, reclaimable material or debris, whether or not stored or used in conjunction with dismantling, processing, salvage, storage, baling, disposal or other use or disposition. Junk includes, but is not limited to, vehicles, tires, vehicle parts, equipment, paper, rags, metal, glass, building materials, household appliances, brush, wood and lumber.

(ffff) **Junk Yard.** Premise where land, buildings or structures where junk, waste, discarded, salvaged or similar materials such as old metals, wood, lumber, glass, paper, rags, cloth, cordage, barrels, containers, etc., are brought, bought, sold, exchanged, baled, packed, stored or handled, including used

lumber and building materials, equipment, wrecking yards and the like. This definition shall not include automobile salvage or wrecking yards or pawnshops and establishments for the sale, storage or purchase of secondhand vehicles, clothing, furniture, appliances or similar household goods, all of which shall be usable, nor shall it apply to the processing of used, discarded or salvageable materials incident to manufacturing activity on the same site.

- (gggg) **Kenel**. An establishment licensed to operate a facility housing dogs, cats or other household pets and where selling, grooming, breeding, boarding, training for a fee, letting for hire of animals is conducted as a business.
- (hhhh) **Kenel, Private**. Any building or buildings or land designed or arranged for the care of dogs and/or cats belonging to the owner of the principal use, kept for purposes of show, hunting, or as pets.
- (iii) **Landmark**. Any structure or improvement which has a special character or special historic interest or value as part of the development, heritage or cultural characteristics of the community, State, or nation and which has been designated as a landmark pursuant to the provisions of this chapter.
- (jiji) **Landmark Site**. Any parcel of land of historical significance due to substantial value in tracing the history of aboriginal man, or upon which a historic event has occurred, and, which has been designated as a landmark site pursuant to the provisions of this chapter; or a parcel of land, or part thereof, on which is located a landmark and any abutting parcel, or part thereof, used as and constituting part of the premises on which the landmark is situated.
- (kkkk) **Land Area**. When referring to a required area per dwelling unit, means "net land area", the area exclusive of public rights-of-way and other public open space.
- (llll) **Landowner**. Any person holding title to or having an interest in land.
- (mmmm) **Land User**. Any person operating, leasing, renting, or having made other arrangements with the landowner by which the landowner authorizes use of his land.
- (nnnn) **Lighting, Exterior**. See Town of Hortonia Exterior Lighting Ordinance.
- (oooo) **Livestock, Agricultural**. Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites,

and farm-raised fish.

(pppp) **Livestock, Residential.** Animals, typically associated with agricultural uses, allowed in the RE Rural Estate District as a permitted or conditional use and within the R-1 Residential District as a conditional use including, but not necessarily limited to:

1. Work or draft horses
2. Saddle horses
3. Ponies
4. Miniature horses
5. Llamas and Alpacas
6. Milk cows
7. Sheep and goats
8. Chickens
9. Turkeys

(qqqq) **Loading Space.** A space within the principal building or on the same lot as the principal building providing for the standing, loading or unloading of trucks and with access to a street or alley.

(rrrr) **Lot.** A parcel of land used or set aside and available for use as the site for one or more buildings and buildings accessory thereto or for any other purpose, in one ownership and not divided by a street nor including any land within the limits of a public or private street right-of-way. The term "record lot" shall mean land designated as a distinct and separate parcel on a legally recorded deed or plat in the Register of Deeds' office.

(ssss) **Lot, Flag.** A lot with access provided to the bulk of the lot by means of a narrow corridor.

(tttt) **Lot, Interior.** A lot other than a corner lot or through lot.

(uuuu) **Lot, Substandard.** A parcel of land intended to be separately owned,

developed, and otherwise used as a unit, but having insufficient size to meet the lot width, lot area, yard, off-street parking areas, open space or other provisions of this Ordinance as pertaining to the district wherein located.

(vvvv) **Lot, Through.** Lot having frontage on two (2) more or less parallel streets, which is not a corner lot. For the purposes of this Ordinance, both frontages shall be deemed front lot lines.

(wwwww) **Lot Area.** The total horizontal area within the lot lines of the lot.

(xxxx) **Lot Coverage.** The percentage of the lot area covered by the principal structure.

(yyyy) **Lot Depth.** Depth of a lot shall be considered to be the distance between the midpoints of straight lines connecting the foremost points of the side lot lines in front and the rearmost points of the side lot lines in the rear.

(zzzz) **Lot Frontage.** The front of an interior lot shall be construed to be the portion nearest the street. For the purpose of determining yard requirements on corner lots and through lots, all sides of a lot adjacent to a street shall be considered frontage, and yards shall be provided as set out in these zoning regulations. For the purpose of computing number and area of signs, frontage of a lot shall be established by orientation of the frontage of buildings thereon, or of principal entrance points to the premises if building frontage does not clearly indicate lot frontage. If neither of these methods are determinant, the Building Inspector shall select on the basis of traffic flow on adjacent streets, and the lot shall be considered to front on the street with the greater flow.

(aaaaa) **Lot Line, Front.** That boundary of a lot which abuts a street line. On a corner lot, the lot line having the shortest length abutting a street line shall be the front lot line.

(bbbbb) **Lot Line, rear.** That boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line. Where the side property lines of a lot meet in a point, the rear lot line shall be assumed to be a line not less than ten (10) feet in length within the lot, parallel to and at the maximum distance from the front lot line.

(ccccc) **Lot Line, Side.** Any lot line which is not a front or a rear lot line.

(ddddd) **Lot of Record.** A lot whose existence, location and dimensions have

been legally recorded or registered with the Register of Deeds of Fond du Lac County, Wisconsin on a plat or in a deed.

- (eeeeee) **Lot Width.** Width of a lot shall be considered to be the average distance between straight lines connecting front and rear lot lines at each side of the lot, measured as straight lines between the foremost points of the side lot lines in front (where they intersect with street line) and the rear most points of the side lot lines in the rear, provided, however, that the width between the side lot lines at their foremost points in the front shall not be less than 80 percent of the required lot width except in the case of lots on the turning circle of a cul-de-sac, where the width shall not be less than 60 percent of the required lot width.
- (fffff) **Low Impact Development (LID).** An approach to reducing development impacts to the aquatic environment. The premise is to replicate the pre-development water runoff and infiltration characteristics of a development site.
- (ggggg) **Main Building Façade.** That portion of a building or structure which is parallel or nearly parallel to the abutting street. For buildings which front on two or more streets the main building facade shall contain the main entrance to such building.
- (hhhhh) **Manufactured Home.** A factory-built, single-family structure that is manufactured in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 (as evidenced by the presence of a manufacturer's certification label on the unit).
- (iiiiii) **Mobile Home.** A transportable, factory-built home, designed to be used as a year-round residential dwelling that was built prior to June 15, 1976, which was the effective date of the Federal Manufactured Housing and Construction and Safety Standards Act of 1974.
- (jjjjj) **Mobile Home Park.** Premises designed and maintained for the location of two or more mobile homes under a continuing local general management and including special facilities for common use by the occupants such as open space areas and recreational areas and buildings.
- (kkkkk) **Mobile Home Site.** A mobile home site is a parcel or lot within a mobile home park, designated for the accommodation of not more than one mobile home.

- (lllll) **Motor Vehicle.** Any automobile, pickup truck, truck, truck-trailer, trailer, semi-trailer, motorcycle, motor home or other passenger vehicle propelled or drawn by mechanical power.
- (mmmmm) **Nonconforming Use.** A lawful use of land and/or location of buildings or structures that does not comply with current land use regulations, but which complied with applicable regulations at the time the use was established.
- (nnnnn) **Nonfarm Residence.** Any residence other than a farm residence.
- (ooooo) **Nonfarm Residential Acreage.** The combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Town of Hortonia has approved nonfarm residences, all parcels of 10 acres or less that do not qualify as farms, and the parcel to which the conditional use permit application pertains. If a residence is located or proposed to be located on an undivided farm, but does not qualify as a farm residence, the size of the residential parcel is deemed to be 10 acres.
- (ppppp) **Nonmetallic Mining or Nonmetallic Mining Operations.** Operations or activities for the extraction from the earth of mineral aggregates, such as stone, decomposed granite, sand and gravel; nonmetallic minerals including, but not limited to asbestos, beryl, clay, feldspar, peat, talc and topsoil; related operations or activities including, but not limited to excavation, grading and dredging if the purpose of those operations or activities is the extraction of mineral aggregates and nonmetallic minerals; and related processes such as stockpiling, crushing, screening, scalping, dewatering and blending.
- (qqqqq) **Noxious Matter or Material.** A material which is capable of causing injury to living organisms by chemical reaction, or is capable of causing detrimental effects on the physical or economic well-being of individuals.
- (rrrrr) **Nursing Home.** A home for aged, chronically ill, infirm, or incurable persons, or a place of rest for those persons suffering bodily disorders, in which three (3) or more persons, not members of any family residing on the premises, are received and provided with food, shelter and care, but not including hospitals, clinics, or similar institutions devoted primarily to the diagnosis and treatment of disease or injury, maternity cases, or mental illness.
- (sssss) **Office, Business.** A business office is an office for such activities as real estate agencies, advertising agencies (but not sign shops), insurance agencies, travel agencies and ticket sales, chamber of commerce, credit

bureau (but not finance company), abstract and title agencies or insurance companies, stockbrokers, and the like. It is characteristic of a business office that retail or wholesale goods are not shown on the premises to a customer. A barber or beauty shop is not a business office.

- (ttttt) **Office, Professional.** A professional office is an office for the use of a person or persons generally classified as professionals, such as architects, engineers, attorneys, accountants, doctors, dentists, chiropractors, psychiatrists, psychologists, and the like.
- (uuuuu) **Official Map.** The Official Map of the Town of Hortonia.
- (vvvvv) **Open Space.** That part of the lot area not used for buildings, parking, or service. Open space may include lawns, trees, shrubbery, garden areas, footpaths, play areas, pools, water courses, wooded areas and paved surfaces used as access drives but not used for vehicular parking of any kind.
- (wwwww) **Parking Lot.** A structure or premises containing five (5) or more parking spaces open to the public.
- (xxxxx) **Parking Space.** An enclosed or unenclosed, area reserved for off-street parking for one motor vehicle and which is accessible to and from a street or alley.
- (yyyyy) **Parties of Interest.** Shall, at a minimum, include the applicant, the owner of the subject property (if different than the applicant) and all adjacent property owners.
- (zzzzz) **Permit Issuer.** The officer or other designated authority charged with the administration and enforcement of this ordinance, or his/her duly authorized representative.
- (aaaaa) **Plan Commission.** The agency or commission designated by the Town Board pursuant to Section 62.23 Wis. Stats.
- (bbbbb) **Prime Farmland.** All of the following:
1. An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.

2. Land which is identified as prime farmland in the county's certified farmland preservation plan.

(ccccc) **Principal Use**. See Use, Principal.

(dddddd) **Prior Nonconforming Use**. A land use that does not comply with this farmland preservation zoning ordinance, but which lawfully existed prior to the application of this ordinance.

(eeeeee) **Protected Farmland**. Land that is any of the following:

1. Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
2. Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
3. Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
4. Otherwise legally protected from nonagricultural development.

(ffffff) **Quarry, Sand Pit, Gravel Pit, Topsoil Stripping**. See nonmetallic Mining.

(gggggg) **Recreation Area**. A recreation area included park, playground, ball field, ski hill, sport field, swimming pool, golf course, commercial riding stables or riding academies or other facilities and areas constructed for recreational activities and open for use by public or private organizations.

(hhhhh) **Recreational Camp**. Premises and facilities used occasionally or periodically for the accommodation of members of groups or associations for outdoor recreational activities.

(iiiiii) **Retail**. The sale of goods or merchandise in small quantities to the consumer.

(jjjjj) **Roadside Stand**. An enclosed or semi-enclosed structure, no larger than 50 square feet in ground area, used or intended to be used for the sale of farm products solely by the owner or tenant of the farm on which such structure is located.

(kkkkk) **Roadway**. That portion of a right-of-way that is used or intended to be

used for the travel of motor vehicles.

(lllll) **Salvage Yard.** An open area where junk, wastes, used, or secondhand materials are bought, sold, exchanged, stored, processed or handled. An Automobile Wrecking Yard is also considered a salvage yard.

(mmmmmm) **Sanitary Landfill.** A method of disposing of refuse by spreading and covering such refuse with earth to a depth of two (2) feet on the top surface and one (1) foot on the sides of the bank, which sides shall have a least 1:2 slope.

(nnnnnn) **Self-Service Storage Facility.** A building consisting of individual, small, self-contained units that are leased or owned for the storage of business and or personal goods.

(oooooo) **Setback.** The minimum horizontal distance between the roadway center line or road right-of way, as applicable, and the nearest vertical wall or other element of a building or structure, excluding steps.

(pppppp) **Shoreland Jurisdiction.** The area within 1,000 feet of the ordinary high water mark of a navigable lake, pond or flowage; or within 300 feet of the ordinary high water mark of a river or stream; or to the landward side of a floodplain, whichever distance is greater.

(qqqqqq) **Shoreland Wetland.** A wetland, as defined by this Ordinance, which is located within a shoreland area.

(rrrrrr) **Sign.** Any structure, part thereof, or device attached thereto or painted or represented thereon which displays or includes any numeral, letter, word, model, banner, emblem, device, trademark or other representation used as, or in the nature of, an announcement, advertisement, direction or designation of any person or thing in such a manner as to attract attention from outside of the building. The following signs shall not be included in the application of sign regulations herein:

1. Signs not exceeding one square foot in area and bearing only property numbers, postbox numbers, names of occupants of the premises, or other identification not having commercial connotations.
2. Flags and insignia of any government except when displayed in connection with a commercial promotion.

3. Legal notices, identification, informational, or directional signs erected or required by governmental agencies.
4. Integral or architectural features of buildings except letters, trademarks, moving parts or moving lights.
5. Signs directing or guiding traffic and parking on private property, but bearing no advertisement matter and not exceeding the nine square feet in area.
6. Temporary paper signs advertising a cultural or civic matter within 30 days of such an event.

(ssssss) **Sign, Accessory.** A sign relating in its subject matter to the premises on which it is located.

(tttttt) **Sign, Types.**

1. Detached sign is a sign not attached to or painted on a building but which is affixed to the ground, fence, or wall not part of a building.
2. Flat sign is a sign attached to or parallel to the face of a building or erected or painted on the outside wall of a building and where support of such sign is provided by the wall. No part of such sign shall extend more than 18 inches from the building.
3. Marquee sign is a sign attached to and projecting 18 inches or more from the face of the wall of a building.

(uuuuuu) **Sign Area.** Sign area shall be computed as including the entire area within the periphery of a regular geometric form or combinations of regular geometric forms, comprising all of the display area of the sign and including all of the elements of the matter display but not including frames or structural elements of the sign bearing no advertising matter. In the case of double face signs, where both faces advertise a single facility, product or service, only one face shall count toward area.

(vvvvvv) **Sign, Number of.** For the purpose of determining number of signs, a sign shall be considered to be a single display surface or devise containing elements organized, related, and composed to form a unit. Where subject matter is displayed randomly without any organization of the elements, each element shall be considered to be one sign.

- (wwwwww) **Site Plan.** a plan, prepared to scale, showing accurately and with complete dimensioning, the boundaries of a site and the location of all buildings, structures, uses, and principal site development features proposed for a specific parcel of land.
- (xxxxxx) **Slope.** The degree of deviation of a surface from the horizontal, usually expressed in percent or degrees.
- (yyyyyy) **Special exception.** See Use, Conditional.
- (zzzzzz) **Stable.** Premises where more than one horse is boarded, raised, kept or trained regardless of whether such horses are owned by the occupants or owners of the premises.
- (aaaaaaa) **Stable, Riding.** Premises on which horses are kept for the purpose of renting them to the public on any basis. A riding stable shall consist of not less than five acres.
- (bbbbbbb) **Storage Establishment.** Premises where goods and materials or more than three motor vehicles, recreational vehicles or boats are stored for a fee.
- (ccccccc) **Story.** That portion of a building, other than a basement, that is between the surface of any floor and the surface of the next floor above it or, if there is not a floor above, then the space between such floor and the ceiling next above it.
- (ddddddd) **Street Line.** The dividing line between the street and the lot. The street line shall be the same as the legal right-of-way line.
- (eeeeeee) **Structural Alteration.** Any change in the supporting members of a building, such as bearing walls, columns, beams, or girders; except that the application of any exterior siding to an existing building for the purpose of beautifying or modernizing shall not be considered a structural alteration. (See also Alteration).
- (ffffff) **Structure.** Anything constructed or erected with a fixed location on the ground, or attached to something with a fixed location on the ground. Among other things, structures include signs, mobile homes and parking lots.
- (ggggggg) **Tavern.** An establishment where liquors are sold to be consumed on

the premises but not including restaurants where the principal business is the serving of food.

(hhhhhhh) **Temporary Structure.** A movable structure not designed for human habitation nor for the permanent storage of goods or chattels.

(iiiiiii) **Town.** Town of Hortonia, Wisconsin.

(jjjjjjj) **Town Board.** The Board of Supervisors of the Town of Hortonia, Wisconsin.

(kkkkkkk) **Tree, Canopy.** A tree whose leaves would occupy the upper level of a forest in a natural ecological situation. These trees are often referred to as shade trees.

(lllllll) **Tree, Understory.** A tree whose leaves would occupy the lower level of a forest in a natural ecological situation. These types of trees are often referred to as ornamental trees.

(mmmmmmm) **Use.** The purpose or activity for which the land, or building thereon, is designed, arranged, or intended, or for which it is occupied or maintained.

(nnnnnnn) **Use, Accessory.** A use clearly incidental and subordinate to, and on the same lot as a principal use.

(ooooooo) **Use, Accessory – For A-1 Farmland Preservation District.** Means any of the following land uses on a farm:

1. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
2. An activity or business operation that is an integral part of, or incidental to, an agricultural use.
3. A farm residence.
4. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described listed in 1 through 3 above, that employs no more than 4 fulltime employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other

protected farmland.

5. Roadside stands.
6. Horse boarding.
7. Bed and Breakfast.
8. Any other use that the department, by rule, identifies as an accessory use.

(ppppppp) **Use, Conditional.** A use that would not be appropriate generally as a permitted use in the zoning district, but which may be allowed in the district after the imposition of special restrictions or requirements different from those usual restrictions for the district in which the use is located.

(qqqqqqq) **Use, Permitted.** A use which may be lawfully established in a particular district or districts, provided it conforms with all requirements, regulations, and standards of such district.

(rrrrrrr) **Use, Principal or Primary.** The primary use of land or structures, as distinguished from a secondary or accessory use.

(sssssss) **Utilities, Essential Services.** Services provided by public or private utilities, necessary for the exercise of a principal use or service of a principal structure. These services include underground, surface or overhead gas, electrical, steam, water, sanitary sewerage, storm water drainage, and communication systems and accessories thereto, such as poles, towers, wires, mains, drains, vaults, culverts, laterals, sewers, pipes, catch basins, water storage tanks, conduits, cables, pumps, lift stations and hydrants.

(ttttttt) **Utilities, Major.** Major public facilities serving community- or region-wide needs, such as water treatment plants, sewage disposal plants, municipal incinerators, municipal warehouses, landfills, shops and equipment and storage yards.

(uuuuuuu) **Utilities, Minor.** Public facilities such as water wells, water and sewage pumping stations, water storage tanks, electric power substations, static transformer stations, telephone and telegraph exchanges, microwave radio relays, and gas regulation stations, and buildings accessory thereto.

(vvvvvvv) **Variance.** A relaxation of the terms of the zoning ordinance where

such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship. Variances may be granted only if they meet the requirements of Section 1.10(5) of this ordinance.

(wwwwwww) **Vision Clearance Triangle.** An area intended to be maintained in a manner which does not significantly obstruct a motorist's vision of an intersecting street.

(xxxxxxx) **Watercourse.** A permanent or intermittent stream channel.

(yyyyyyy) **Wetland.** An area where water is at, near or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions.

(zzzzzzz) **Woodlands.** An area or stand of mature trees Mature wherein twenty (20) percent or more of the trees have a diameter-at-breast-height (DBH) of eighteen (18) inches or more.

(aaaaaaaa) **Yard.** An open space other than a court, on a lot, unoccupied and unobstructed from the ground upward, provided, however, that fences, walls, poles, posts and other customary yard accessory ornaments and furniture may be permitted in any yard subject to height limitations and requirements limiting obstruction visibility. "Required yard" means that minimum distances specified by these regulations measured from the property line.

(bbbbbbbb) **Yard, Front.** The area of the front yard extending across the front of a lot between the side lot lines, and extending from the street right-of-way or setback to the nearest line of the principal structure or projection of the principal structure regardless of the orientation of the principal structure.

(ccccccc) **Yard, Front-Required.** A yard extending across the front of a lot between the side lot lines, and extending from the street line to the nearest line of the principal structure or projection of the principal structure regardless of the orientation of the principal structure.

(ddddddd) **Yard, Rear.** A yard extending across the rear of a lot between the side lot lines, and extending from the rear property line to the nearest line of the principal structure or projection of the principal structure.

(eeeeeee) **Yard, Side.** A yard extending between the nearest building or

projection thereto and the side lot line, and extending from the front yard to the rear yard.

(ffffff) **Zero Lot Line**. The location of a building on a lot such that one or more of the building's sides rests directly on a lot line.

(ggggggg) **Zoning District**. Areas delineated on the Zoning Map of the Town of Hortonia within which, on a uniform basis, certain uses of land and buildings are permitted and certain other uses of land and buildings are prohibited as set forth in this Ordinance, and within which certain yards and other open spaces, lot areas, building sizes and density requirements may be required or regulated, or within which other such regulations are applied.

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1.04 NONCONFORMITIES

1.04

(1) **Applicability and Intent.** Any use of land or structures, or any lot or structure which lawfully existed at the effective date of adoption or amendment of this ordinance which would not be permitted or permissible by the provisions of this ordinance as adopted or amended, shall be deemed nonconforming. It is the intent of this ordinance to permit such nonconformities to continue, subject to certain restrictions.

(2) **Nonconforming Uses of Land (Or Land with Minor Structures Only).** Where at the effective date of adoption or amendment of this ordinance a use of land exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure or structures with a fair market value of less than \$10,000, such use may be continued subject to the following restrictions:

- (a) Such use shall not be enlarged, increased, nor extended to occupy a greater area of the lot than was occupied at the effective date of adoption or amendment of this ordinance.
- (b) Such use shall not be moved in whole or part to any other portion of the lot other than the portion occupied by such use at the effective date of adoption or amendment of this ordinance.
- (c) When such use is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
- (d) No additional structure in connection with such use shall be erected.

(3) **Nonconforming Uses of Structures.** Where at the effective date of adoption or amendment of this ordinance the use of a structure exists which would not be permitted or permissible in the district in which it is located, and where such use involves a structure with a fair market value exceeding \$10,000, such use may be continued subject to the following restrictions:

- (a) No existing structure devoted to a use not permitted or permissible shall be enlarged, extended, constructed, reconstructed, moved, or structurally altered except in changing the use of the structure to a use permitted or permissible in the district in which it is located.
- (b) Any nonconforming use may be extended throughout any parts of a building which were manifestly arranged or designed for such use at the effective

date of adoption or amendment of this ordinance. Any nonconforming use which occupied a portion of a building not originally designed or intended for such use shall not be extended to any other part of the building. No nonconforming use shall be extended to occupy any land outside the building, nor any other building not used for such nonconforming use.

- (c) There may be a change in tenancy, ownership, or management of a nonconforming use provided there is no change in the nature or character of such nonconforming use.
- (d) When such use of a structure is discontinued or abandoned for a period of more than twelve consecutive months for any reason whatever, or when such use is replaced by a permitted or permissible use, a nonconforming use shall not thereafter be resumed.
- (e) If a structure occupied by a nonconforming use is removed or destroyed or damaged to an extent of more than 50 percent of its fair market value at the time of destruction, the nonconforming use shall not be resumed.

(4) **Nonconforming Structure.** Where at the effective date of adoption or amendment of this ordinance a structure exists which could not be erected in the district in which it is located by reason of restriction on area or coverage, height, yards, its location on the lot or other requirements concerning the structure, such structure may continue in existence subject to the following restrictions:

- (a) Such structure shall not be altered in any manner which would increase the degree of nonconformity. The total structural repairs or alterations in such nonconforming structure shall not during its life exceed 50 percent of the fair market value of the structure.
- (b) If such structure is destroyed or damaged to an extent of less than 50 percent of its replacement cost at the time of destruction, it may be reconstructed provided reconstruction shall substantially reflect the prior structural arrangement and shall not increase the degree of nonconformity. If such structure is destroyed or damaged to an extent of more than 50 percent of its fair market value at the time of destruction, it shall not be reconstructed except in conformity with the provisions of the district in which it is located.

(5) **Nonconforming Characteristics of Use.** If characteristics of use such as lighting, parking, noise or other matters pertaining to the use of land, structures and premises are made nonconforming by the provisions of this ordinance as adopted or amended, no change shall thereafter be made in such characteristics of use which increases the

nonconformity; provided, however, that changes may be made which do not increase, or which decrease, such nonconformity.

(6) **Nonconforming Lots of Record.**

- (a) In any district except the A-1 District, any permitted or permissible structure may be erected on a single lot of record at the effective date of adoption or amendment of this ordinance. This provision shall apply even though such lot fails to meet the requirements of lot area, lot width, or both for the district in which it is located, provided such lot shall be in separate ownership and not of continuous frontage with other lots in the same ownership, and provided all other requirements for the district are met.
- (b) If two or more lots, or combinations of lots and portions of lots with continuous frontage in single ownership are of record at the effective date of adoption or amendment of this ordinance, the lands involved shall be considered to be an individual parcel for the purposes of this ordinance, and no portion of such parcel shall be used, divided, or sold which does not meet the lot area and lot width requirements for the district in which it is located.

(7) **Nonconforming Signs.** No nonconforming sign shall be altered in any manner which would increase the degree of nonconformity. If such sign is destroyed or damaged to an extent of more than 50 percent of its replacement cost at the time of destruction, such sign shall be replaced as a conforming sign. If a nonconforming sign is destroyed or damaged to an extent of less than 50 percent of its replacement cost at the time of destruction, it may be reconstructed provided any reconstruction does not increase the degree of nonconformity which previously existed.

(8) **Casual, Temporary, or Illegal Use.** The casual, temporary, or illegal use of land or structures, or land structures in combination, shall not be sufficient to establish the existence of a nonconforming use or to create rights in the continuance of such use.

(9) **Repairs and Maintenance.** Nothing in this ordinance shall be deemed to prevent normal maintenance or repair of any structure or to prevent restoring to a safe condition any structure declared to be unsafe.

(10) **Conditional Uses.** Any use or structure existing on the effective date of adoption or amendment of this ordinance which is classified as a conditional use in the district in which it is located shall be deemed to have been granted approval, subject to maintaining the character and extent of such use or structure existing on that date. Any extension, enlargement or change in such use or structure shall require approval according to the

terms of this ordinance.

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(1) **Interpretation and Organization.**

- (a) District regulations shall be as set forth in this Section and as modified and supplemented by Section 1.06.
- (b) Permitted principal and accessory uses and structures listed for any district shall be permitted by right subject to the conditions as specified.
- (c) Conditional uses and structures listed for any district are permissible only upon approval by the Town Board after notice and hearing subject to the conditions as specified and any other conditions as may be imposed by the Town Board to promote the general health, safety and welfare as set forth in Section 1.08.
- (d) In those instances where district regulations set forth a list of permitted or permissible uses followed by the phrase "and uses of a similar nature," it is understood that the list of permitted or permissible uses is not exhaustive or all inclusive but that other uses of a like or similar nature are also permitted or permissible. Determination of whether a specific use, not enumerated, is of a like or similar nature shall be made by the Town Building Inspector. The determination by the Town Building Inspector may be appealed as provided in Section 1.10.
- (e) All uses and structures, dimensional, and sign regulations in the Schedule of District Regulations shall be subject to Section 1.06.

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- (a) **Purpose.** Purpose. The purpose of this district is to maintain, preserve and enhance agricultural lands historically exhibiting high crop yields and to comply with the requirements of the Wisconsin Farmland Preservation Program (Chapter 91, Wis. Stats.). Such lands are generally classified as Prime Agricultural Lands and as Lands of State Wide Importance as rated by the U.S. Department of Agriculture, Soil Conservation Service, and shall include farmland of local significance where it is contiguous to either of the above, or part of a farming operation with either of the above. As a matter of policy, it is hereby determined that the highest and best use of these lands is agriculture.
- (b) **Permitted Uses.** The following land uses are allowed without a conditional use permit in the A-1 Prime Agricultural/Farmland Preservation District:
1. Agricultural uses and accessory uses on farms, except that a conditional use permit is required under section D(4) for the following agricultural uses and accessory uses on farms:
 - a. A new or expanded facility used to keep cattle, swine, poultry, sheep or goats, if that facility will have more than 500 animal units.
 2. Nonfarm residences constructed in a rural residential cluster according to a conditional use permit issued under section D(3) for that cluster.
 3. Undeveloped natural resource and open space areas.
 4. Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.
- (c) **Conditional Uses.** The Town of Hortonia may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section. Before issuing a conditional use permit, the Town of Hortonia shall determine in writing that the proposed

use meets applicable conditions under this section. The Town of Hortonia may issue the permit subject to any additional conditional uses that the Town of Hortonia deems necessary to carry out the purposes of this ordinance.

1. Nonfarm residences. The Town of Hortonia may issue a conditional use permit for a proposed nonfarm residence if all of the following standards will be met when the approved nonfarm residence comes into existence:
 - a. If the nonfarm residence will be located in a base farm tract:
 - i. The ratio of nonfarm residential acreage to farm acreage in the base farm tract will not exceed 1:20.
 - ii. There will be no more than 4 dwelling units in nonfarm residences, nor more than 5 dwelling units in residences of any kind, in the base farm tract.
 - iii. The minimum lot size for the nonfarm residence in a base farm tract is 5 acres.
 - b. Neither the nonfarm residence, nor the parcel on which the nonfarm residence is located, will do any of the following:
 - i. Convert prime farmland, or cropland other than a woodlot, from agricultural use if there is a reasonable alternative available to the permit applicant.
 - ii. Significantly impair or limit the current or future agricultural use of any other protected farmland.
2. Nonfarm residential clusters. The Town of Hortonia may issue a single conditional use permit authorizing 2 or more proposed nonfarm residences if all of the following apply:
 - a. The conditional use permit includes all of the following information:
 - i. The total number of nonfarm residences authorized by the permit.
 - ii. A legal or survey description of each parcel on which a nonfarm residence is authorized.

- iii. The number of nonfarm residences authorized on each parcel under Section 1.05(2)(c).1.a and b, if more than one.
 - iv. The number of dwelling units authorized in each authorized nonfarm residence, if more than one.
 - b. Each of the parcels described under Section 1.05(2)(a)(i through iv) shares a boundary with at least one other parcel described under that section.
 - c. Each of the proposed nonfarm residences will meet all of the standards under Section 1.05(2) when all of the proposed nonfarm residences have come into existence.
 - d. The conditional use permit prohibits all of the following:
 - i. Any further division of any parcel described in Section 1.05(2).
 - ii. Any nonfarm residence or dwelling unit on a parcel identified in Section 1.05(2), other than a nonfarm residence or dwelling unit identified in the permit.
3. Agricultural and accessory uses on farms. The Town of Hortonia may issue a conditional use permit for any of the following agricultural uses or accessory uses:
- a. A new or expanded facility that will be used to keep cattle, swine, poultry, sheep or goats, and that will have more than 500 animal units, if the proposed facility meets the standards prescribed in ch. ATCP 51, Wis. Adm. Code.
 - b. A food processing plant that processes raw agricultural commodities received from farms.
 - c. A feed mill or rendering plant that processes raw agricultural commodities or agricultural by-products received directly from farms, or supplies animal feed directly to farms.
 - d. An ethanol plant, bio-diesel plant, communal manure digester, pelletizing plant or other facility that processes raw

agricultural commodities, agricultural by-products or agricultural wastes (received directly from farms) to produce fuel or other products.

- e. A sawmill or other facility that processes wood or other forest products received directly from farms.
- f. A facility that provides farm inputs such as fertilizer, pesticides, seed or feed directly to farms.
- g. A facility that is primarily engaged in sale and servicing of farm vehicles or other farm equipment.
- h. A facility that is primarily engaged in providing agronomic or veterinary services to farms.
- i. Home occupations.

4. Agriculture-related uses. The Town of Hortonia may issue a conditional use permit for an agriculture-related use if all of the following apply:

- a. The use supports agricultural uses in the farmland preservation zoning district in direct and significant ways, and is more suited to a farmland preservation zoning district than to an industrial or commercial zoning district.
- b. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- c. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- d. The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.
- e. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.

- f. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
5. Compatible infrastructure.
- a. The Town of Hortonia may issue a conditional use permit for any of the following uses if that use meets applicable conditions under Section 1.05(2)(c):
 - i. Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities.
 - ii. Communication uses, including transmission lines, cell towers, antennae and broadcast towers.
 - iii. Oil, gas and other pipelines.
 - iv. Electrical transmission lines.
 - v. Wind turbines.
 - vi. Solar power generation facilities.
 - vii. Drainage facilities.
6. Government and nonprofit community uses. The Town of Hortonia may issue a conditional use permit for a government use, or for an institutional, religious or community use, if the Town of Hortonia determines that all of the following apply:
- a. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - b. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
 - c. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.

- d. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
 - e. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
7. Nonmetallic mineral extraction. The Town of Hortonia may issue a conditional use permit for a nonmetallic mineral extraction operation if all of the following apply:
- a. The operation complies with all of the following:
 - i. Subchapter I of ch. 295, Wis. Stats., and rules promulgated under that subchapter.
 - ii. Applicable provisions of county and local ordinances adopted under ss. 295.13 and 295.14, Wis. Stats.
 - iii. Any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
 - b. The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
 - c. The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
 - d. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
 - e. The operation does not substantially impair or limit the current or future agricultural use of other protected farmland.
 - f. The conditional use permit requires the landowner to restore the affected land after the nonmetallic mineral extraction operation is completed. The permit shall require the landowner to restore the land to a condition suitable for

agricultural use, according to a written restoration plan included with the permit.

8. Rezoning Land out of a Farmland Preservation Zoning District.
 - a. Except as provided in Section 1.05(2)(c)8.b, the Town of Hortonia may not rezone land out of a farmland preservation zoning district unless the Town of Hortonia does all of the following prior to the rezoning:
 - i. Finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - The rezoning is consistent with any comprehensive plan, adopted by the Town of Hortonia, which is in effect at the time of the rezoning.
 - The rezoning is substantially consistent with the Outagamie County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
 - b. Section 1.05(2)(c)8 does not apply to any of the following:
 - i. A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
 - ii. A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Outagamie County Farmland Preservation Plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

(d) **Yard and Height Requirements.**

1. Minimum front yard (set back) for all uses and structures shall be 100 feet; side yards 50 feet each; and rear yard 25 feet.
2. Maximum height for all structures shall be two times the distance to the nearest lot line.

(f) **Permitted Accessory Signs.**

1. One sign, not exceeding one hundred (100) square feet in area, identifying the premises or establishment.
2. One sign not exceeding twenty-five (25) square feet in area, advertising the sale of farm products on the premises.
3. Temporary signs for the sale or lease of the property.

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- (a) **Purpose.** The intent of this district is to maintain open land areas predominantly devoted to farming and agricultural related uses. It is anticipated that while certain areas within this district will eventually be used for non-agricultural uses; the intensity of development will remain significantly limited due to a lack of urban facilities and services. It is also intended that this district provide for small-scale, family-oriented businesses on a case-by-case basis.
- (b) **Permitted Uses.** The following land uses are allowed without a conditional use permit in a A-2 General Agricultural District:
1. Beekeeping; commercial feedlots involving less than 300 animal units; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising involving less than 10 animal units; raising of grain, grass, mint and seed crops; raising of fruits, nuts and berries; sod farming; placing land in federal programs in return for payments 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.
 2. Forest and game management; greenhouses; private nature trails and walks; flood protection, movement of water and stream bank protection; and wilderness and wildlife preservation areas.
 3. Residences associated with agriculture: One single family residence consistent with agricultural use occupied by the owner of the parcel or by a person who, or family at least one adult member of which, earns the majority of his or her gross income from conducting the farm operations on the farm parcel or by a parent or child of an owner who conducts the majority of farm operations on the parcel, or by a parent or child of an owner who resides on the parcel and who previously conducted the majority of the farm operation on the parcel.
 4. Pre-existing single family dwellings, other than the farmstead, constructed prior to 1989.

(c) **Accessory Uses.**

1. Uses and structures customarily accessory and clearly incidental to permitted principal uses and structures.
2. Home occupations.

(d) **Conditional Uses.** Conditional uses are limited to agricultural- related, religious, utility, institutional, or governmental uses that are consistent with agricultural use and are found necessary in light of alternative locations available for such uses subject to the requirements of Section 1.08(6).

1. One additional single family residence provided it is to be occupied by a parent or child of any owner who conducts the majority of the farm operations on the parcel or a parent or child of an owner who resides on the parcel and who previously conducted the majority of the farm operations on the parcel.
2. Non-commercial stables.
3. Cemeteries.
4. Public and semi-public institutional uses including hospitals; colleges and universities; churches; and schools.
5. Governmental uses including police and fire stations; highway storage garages; parks and playgrounds; and museums.
6. Condenseries and creameries.
7. Saw mills.
8. Pea vineries.
9. Feedlots involving more than 300 animal units.
10. Poultry raising involving more than 10 animal units.
11. Utility installations, including gas and electric utility uses not requiring authorization under Section 196.491(3) Wis. Stats.
12. Temporary housing for seasonal farm labor not to be occupied more

than 180 days per calendar year certified under Section 103.92 Wis. Stats.

13. Quarries and gravel pits subject to the requirements of Section 1.06 and the Town of Hortonia Nonmetallic Mining Operations Ordinance.
14. One roadside stand per farm of not more than 300 square feet, used solely for the sale of products produced on the premises or adjoining premises.

(e) **Lot, Yard and Height Requirements.**

1. Minimum lot size shall be 15 acres.
2. Minimum front yard (set back) for all uses and structures shall be 100 feet; side yards 50 feet each; and rear yard 25 feet.
3. Maximum height for all structures shall be 35 feet.

(f) **Permitted Accessory Signs.**

1. One sign, not exceeding 100 square feet in area, identifying the premises or establishment.
2. One sign not exceeding 25 square feet in area, advertising the sale of farm products on the premises.
3. Temporary signs for the sale or lease of the property.

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- (a) **Purpose.** This district is intended to maintain open land areas predominately devoted to residential use but provide opportunities for residents to engage in other rural uses secondary to the property's principal use as residential.
- (b) **Permitted Uses.**
1. Single family detached dwelling as defined in Section 1.03(24).
 2. Public and semi-public non-profit institutional uses including a church, school, museum and uses of a similar nature.
 3. Park and preserve.
 4. The following uses provided the owner or proprietor resides on the premises, no persons other than family members residing on the premises shall be engaged in such use, and no commercial sales is conducted on the premises: gardens, nurseries and orchards; and truck farming.
 5. Keeping, raising, or housing of livestock, as defined in 1.05(4)(b)(5)(a) (i-v) provided such activity is not of a commercial nature. Such activity shall require a minimum lot size of five acres and shall not exceed a density of 1 animal unit per 1.5 acres not including 1 acre for the home site. No building for the housing of horses shall be located within 100 feet any boundary of a residential lot, other than a lot owned by the owner or lessee of the building housing the horse(s). Appropriate fencing shall be in place prior to livestock being permitted on the parcel.
 - a. For the purposes of Sec. 1.05(4)(b)(5) of this Ordinance, livestock shall include:
 - i. Saddle horses, ponies, and miniature horses
 - ii. Llamas and alpacas
 - iii. Sheep and goats

- iv. Chicken, excluding roosters (maximum of 20)
- v. Turkeys (maximum of 10)

(c) **Accessory Uses.**

- 1. Uses and structures customarily accessory and clearly incidental to permitted principal uses and structures provided, however, that there shall not be more than one detached private garage on a lot.
- 2. Home occupations.

(d) **Conditional Uses.**

- 1. The following uses provided the owner or proprietor resides on the premises: Offices or shops in connection with skilled tradesmen such as carpenters, welders, plumbers, electricians and the like and crafts produced on the premises.
- 2. Veterinarians.
- 3. Keeping, raising, or housing of livestock, as defined in 1.05(4)(d)(3)(a) (i-ii) provided such activity is not of a commercial nature. Such activity shall require a minimum lot size of five acres and shall not exceed a density of 1 animal unit per 1.5 acres not including 1 acre for the home site. No building for the housing of horses shall be located within 100 feet any boundary of a residential lot, other than a lot owned by the owner or lessee of the building housing the horse(s). Appropriate fencing shall be in place prior to livestock being permitted on the parcel.
 - a. For the purposes of Sec. 1.05(4)(d)(3) of this Ordinance, livestock will be defined as:
 - ii. Work or draft horse
 - iii. Milk cow
- 4. Accessory structures within front yards, under the following conditions:
 - a. No accessory structures are to be permitted within the required front yard, as defined in Section 1.03(2)(ccccccc) of this

ordinance.

- b. No more than two accessory structures will be allowed within the front yard, as defined in Section 1.03(2)(bbbbbbb).
- c. The maximum floor area of a garage located within the front yard shall not exceed 750 square feet and the cumulative floor area of all accessory structures located within the front yard shall not exceed 1,000 square feet.
- d. The maximum allowable height of an accessory structure shall not exceed the height of the principal structure.
- e. Accessory structures located within the front yard must be:
 - i. Constructed upon permanent foundations.
 - ii. Constructed of substantially the same materials and be substantially the same in appearance as the principal structure.
 - iii. Constructed with a roof pitch of 6/12 or 8/12, unless otherwise specified by the Plan Commission

(e) **Lot, Yard and Height Requirements.**

- 1. Minimum lot size shall be five acres.
- 2. Minimum lot width shall be 250 feet.
- 3. Minimum front yard (setback) shall be 50 feet; side yards 50 feet each; and rear yard 50 feet.
- 4. Maximum height shall be 35 feet.

(f) **Permitted Accessory Signs.**

- 1. Permitted accessory signs 1 through 3 in the A-1 Prime Agricultural District.

(g) **Minimum Residential Structure Size**

1. The minimum size of a residential structure shall be 1,000 square feet.

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- (a) **Purpose.** The TRD-Transitional Residential District is intended to serve as a buffer between the more densely developed areas of the City of New London and Village of Hortonville and the less densely developed rural portions of the Town of Hortonville. Residential development within the TRD will occur exclusively through conservation design for subdivision plats and individual parcels created through a conservation certified survey map.
- (b) **Permitted Uses.** The following uses are permitted in the TRD-Transitional Residential District.
1. One-family dwellings.
 2. Two-family dwellings.
 3. Manufactured homes, subject to the following requirements:
 - a. The minimum ground floor area shall be 1,000 square feet.
 - b. Each manufactured home must be built on or after October 1, 1974, in compliance with either American National Standards Institute or Housing and Urban Development Codes as enforced by the Wisconsin Department of Industry, Labor and Human Relations.
 - c. Foundation base. A base of concrete or crushed rock at least six inches thick, concrete blocks or other properly engineered design which meets the standards of Housing and Urban Development for the proper support of a manufactured home shall be installed.
 - d. Any manufactured home, which has been previously occupied as a dwelling, must have a current fair market value of not less than 60 per cent of its original list price.
 - e. Mobile homes are not allowed within the TRD Transitional Residential District.
 4. Public parks, playgrounds.

5. Public and semi-public non-profit institutional uses including churches, schools, libraries and uses of a similar nature.
6. Conversion of any existing building to a permitted use.
7. Home occupations, provided that no more than 1 sign not illuminated and not exceeding 2 square feet in area which refers to the home occupation is placed on the premises.
8. Swimming pools, provided that all pools shall maintain a minimum side yard and rear yard clearance of 20 feet from the adjoining property.

(c) **Conditional Uses.**

1. Bed and breakfast establishments.
2. Rest homes, nursing homes, clinics, and commercial childcare facilities.
3. Multiple family dwellings, subject to the following additional standards and regulations:
 - a. Ground Floor Area. Minimum ground floor area per dwelling unit shall be for each 1-bedroom unit 700 square feet; for each 2-bedroom unit 800 square feet; for each 3-bedroom unit, 1,000 square feet -- exclusive of common use hallways.
 - b. Off-street parking space. Off-street parking spaces of not less than 300 square feet for each space required shall be provided on the same lot or tract of land as the dwelling served, located not less than 5 feet from any side or rear lot line; 1.5 spaces for each 1-bedroom unit; 1.5 spaces for each 2-bedroom unit; and 2 spaces for each 3-bedroom unit and no such space shall be rented or leased to a non-resident of the premises. Parking area shall be screened with decorative fence or shrubbery from the street and adjacent property and shall provide sufficient area so that vehicles may re-enter the public highway in a forward direction.
 - c. Dimension of Building Sites.
 - i. Minimum area and width for a 3-family unit shall be a

minimum of 1.5 acres (65,340) square feet with a minimum lot width of 200 feet.

- ii. For more than a 3-family unit, 1.5 acres (65,340) square feet plus 7,500 square feet per family unit in excess of 3, with a minimum lot width of 250 feet.
- iii. Side yard. Sum of the required side yards shall be 15 feet per unit with a maximum of 60 feet; no single side yard shall be less than 40% of the required total.

d. Site Improvements.

- i. Refuse disposal shall be located in the rear yard and appropriately screened and accessible for removal from a driveway or a yard service driveway.
- ii. Such additional screening shrubbery and the like as shall be necessary and reasonable in order to retain the aesthetic value of the area and to protect adjacent property.

iii. Such fencing as may be necessary for the safety of the occupants and the public generally.

(d) **Regulations and Standards.**

- 1. The following regulations and standards shall apply to all dwellings.
 - a. Occupancy. Residential occupancy per dwelling unit shall be limited to one family and not more than two roomers or boarders.
 - b. Location. Dwellings shall be located so as to abut a public road and have a minimum of 150 feet of frontage thereon.
 - c. Ground Floor Area. The minimum ground floor area per dwelling unit shall be 850 square feet for 1-story, 800 square feet for split level, and 700 square feet for 2-story plus dwellings; 1/2 of the vertical measurement of the first story must be above ground level.

- d. Off-Street Parking Space
 - i. Each dwelling unit shall be provided with a minimum of 2 off-street parking spaces located on the same lot or tract of land as the dwelling served;
 - ii. Such off-street parking space shall total at least 300 square feet for each space required;
 - iii. Location: such space shall be located no less than 10 feet from any front lot line and shall be located no less than 5 feet from any side or rear lot line.
 - iv. Preserved Open Space. A minimum of forty percent (40%) of each new parcel created through a certified survey map and a minimum of forty percent (40%) of the gross tract area of any subdivision created through a plat shall be permanently preserved as open space as defined in the Land Division and Subdivision Regulations, Town of Hortonia, Outagamie County, Wisconsin.

(e) **Dimensions of Building Sites for Unsewered 1 and 2 Family Units.**

- 1. The minimum lot area shall be ½-acre for each parcel created within a conservation design subdivision consistent with and as described in the Town of Hortonia Land Division and Subdivision Regulations.
- 2. The minimum direct frontage on a public road shall be 100 feet.
- 3. The floor area for a garage(s) on a lot with a single family use shall not exceed 750 square feet in area for any single garage nor 900 square feet in area for a combined total of a detached garage and one other outbuilding.
- 4. Where soil conditions are such as to require larger lot sizes for subdivisions of land under the provisions of Comm 83 and/or Comm 85, Wisconsin Administrative Code, or the Sanitary and Private Onsite Wastewater Treatment System regulations of Outagamie County then such larger lot sizes shall be considered as required by the zoning ordinance.
- 5. Buildings may not to exceed 35 feet or 2½ stories in height.

6. For buildings not over 1½ stories in height, the sum of the width or the required side yards shall not be less than 25 feet and no single side yard shall be less than 10 feet.
7. For buildings from 1½ to 2½ stories in height, the sum of the width of the required side yards shall not be less than 30 feet and no single side yard shall be less than 12 feet.
8. A minimum rear yard depth of 25 feet and a water setback of 75 feet on riparian lots, riparian lot setbacks shall comply with applicable county ordinance and state law. Additional riparian setbacks may be required as per the Land Division and Subdivision Regulations of the Town of Hortonia, Outagamie County.
9. Road setbacks:
 - a. Along town and private roads, no less than 100 feet from the centerline of the road or 65 feet from the right of way line, whichever is greater. Within platted subdivisions, 30 feet from the right-of-way line as shown on the recorded subdivision plat.
 - b. Along state and federal highways, no less than 100 feet from the centerline of the road or 65 feet from the right of way line, whichever is greater and including subdivisions.
10. Vision corners shall be reserved at all road intersections. In each quadrant of every public or private street intersection, there shall be a visual clearance triangle bounded by the street centerlines and a line connecting points on them 300 feet from a Class 1 highway intersection, and 200 feet from a Class 2 highway intersection.
11. The Building Inspector shall require a sanitary permit issued by the County Sanitarian under the County Sanitary Ordinance prior to issuing a town building permit.

(f) **Substandard Lots**. On a single lot having a width of less than 60 feet and of record at the time of the passage of this ordinance, the sum of the widths of the required side yards shall be not less than the equivalent of 5 inches per foot of lot width for buildings not over 1½ stories high, and of 6 inches per foot of lot width for buildings from 1½ to 2 ½ stories high and no single side yard shall be less than 40% of the total.

1.05(6) R-1 RESIDENTIAL DISTRICT 1.05(6)

- (a) **Purpose.** This district is intended to provide for large lot, low density single-family residential development appropriate to the Town's rural character and the unavailability of public sewer.
- (b) **Permitted Uses.**
1. Single family detached dwellings as defined in Section 1.03(24).
 2. Public parks and playgrounds.
 3. Community based residential facilities subject to the provisions and limitations of Section 60.63 of the Wisconsin Statutes.
- (c) **Accessory Uses.**
1. Uses and structures customarily accessory and clearly incidental to permitted uses and structures provided, however, that there shall not be more than one detached private garage on a lot.
 2. Home occupations.
- (d) **Conditional Uses.**
1. Single family attached dwellings.
 2. Two family dwellings.
 3. Multiple family dwellings.
 4. Keeping, raising, or housing of livestock, provided such activity is not of a commercial nature. Such activity shall require a minimum lot size of three acres and shall not exceed a density of 1 animal unit per 1.5 acres not including 1 acre for the home site. No building for the housing of horses shall be located within 100 feet any boundary of a residential lot, other than a lot owned by the owner or lessee of the building housing the horse(s). Appropriate fencing shall be in place prior to livestock being permitted on the parcel.
 - a. For the purposes of Sec. 1.05(6)(d)(4) of this Ordinance,

livestock shall include:

- i. Saddle horses, ponies, and miniature horses
- ii. Llamas and alpacas
- iii. Sheep and goats
- iv. Chicken, excluding roosters (maximum of 20)
- v. Turkeys (maximum of 10)

5. Accessory structures within front yards, under the following conditions:

- a. No accessory structures are to be permitted within the required front yard, as defined in Section 1.03(2)(ccccccc) of this ordinance.
- b. No more than two accessory structures will be allowed within the front yard, as defined in Section 1.03(2)(bbbbbbb).
- c. The maximum floor area of a garage located within the front yard shall not exceed 750 square feet and the cumulative floor area of all accessory structures located within the front yard shall not exceed 1,000 square feet.
- d. The maximum allowable height of an accessory structure shall not exceed the height of the principal structure.
- e. Accessory structures located within the front yard must be:
 - i. Constructed upon permanent foundations.
 - ii. Constructed of substantially the same materials and be substantially the same in appearance as the principal structure.
 - iii. Constructed with a roof pitch of 6/12 or 8/12, unless otherwise specified by the Plan Commission

(e) **Lot, Yard and Height Requirements.**

1. Minimum lot size shall be three acres in a conventional subdivision and ½-acre in a conservation subdivision.
2. Minimum lot width shall be 200 feet and minimum direct frontage on a public road shall be 30 feet.
3. Minimum front yard (set back) shall be 50 feet; side yards 50 feet each; and rear yard 50 feet.
4. Maximum height shall be 35 feet.

(f) **Permitted Accessory Signs.**

1. One subdivision or development identification sign not exceeding fifty (50) square feet in area.
2. For any public or semi public use, one identification sign not exceeding fifty (50) square feet in area and temporary signs or banners in connection with special events not exceeding a period of more than 30 days.
3. Temporary signs for the sale or lease of the property.

(g) **Minimum Residential Structure Size.**

1. The minimum size of a residential structure shall be 1,000 square feet.

(h) **Passive Monitoring Wells.**

1. The installation of at least one passive monitoring well will be required for all subdivisions within the R-1 and TRD districts comprised of five or more lots not served by a community water system.

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- (a) **Purpose.** This district is intended to provide areas within the Town for mobile homes in mobile home parks for those mobile homes which differ in design and appearance from conventionally built homes.
1. Mobile homes are not permitted in districts other than the M-H Mobile Home District.
- (b) **Permitted Uses.**
1. Mobile homes in mobile home parks subject to the requirements of Chapter HSS 177 Wis. Admin. Code and Section 1.06.
 2. Park recreational facilities including recreation center, court games and the like limited to use by park residents.
 3. Park office.
- (c) **Accessory Uses.**
1. Enclosed storage facilities limited to use by park residents.
 2. Laundry facilities limited to use by park residents.
 3. Private garages limited to use by park residents.
- (d) **Conditional Uses.** None.
- (e) **Lot, Yard and Height Requirements.**
1. Each mobile home park shall have a minimum area of 10 acres. Each mobile home site shall have a minimum area of 20,000 square feet.
 2. Yard requirements for the exterior boundaries of the park shall be 100 feet at the front, sides and rear. Yard requirements for the mobile home sites within the park shall be 50 feet at the front and 25 feet at the sides and rear.
 3. Maximum height shall be 35 feet.

(f) **Permitted Accessory Signs.**

1. One park identification sign not exceeding fifty (50) square feet in area.
2. Temporary signs for the sale or lease of the property.

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- (a) **Purpose.** The commercial district is intended to accommodate those retail and service establishments of a local nature. It is further the intent of the Town that commercial development be located along the U.S.H. 45 corridor.
- (b) **Permitted Uses.**
1. Retail outlets including the sale of food, liquor, art or photographic supplies, printing, books or stationary, sundries or notions, jewelry, luggage, florist or gifts, antiques, drugs, pets, home furnishings and appliances, sporting goods or hobbies, automobile accessories and parts, hardware, paint and wallpaper, garden supplies and nurseries, music stores, thrift shops, and clothing stores.
 2. Service establishments including barber and beauty shops, shoe repair, laundry or dry cleaner, appliance repair, photographic studio, dance studio, plumbing and heating sales and service, taxidermists, tailors and sewing shops, optical sales and service, and rental centers.
 3. Business and professional offices including banks; insurance, real estate and travel agencies; medical and dental clinics; attorneys office, engineering and other professional services.
 4. Office equipment and supplies.
 5. Taverns and restaurants provided, however, that no such uses and structures shall be located within 500 feet of a residential district.
 6. Clubs and organizations.
 7. Hotels and motels.
 8. Storage establishments.
 9. Mortuary.
 10. Convalescent homes and nursing homes.
 11. Indoor commercial recreational establishments, including theaters,

billiard parlors, arcades, bowling alleys, and shooting ranges.

12. Condenseries and creameries.

(c) **Accessory Uses.**

1. Uses and structures customarily accessory and clearly incidental to permitted principal uses and structures.
2. Public utility installations.

(d) **Conditional Uses.**

1. Automobile filling stations.
2. Automobile, boat, construction equipment and farm implement sales and service.
3. Agricultural related uses including feedmills and co-ops.
4. Outdoor recreational establishments including archery and shooting ranges, miniature golf and driving ranges, golf courses and campgrounds.
5. Building material supply establishments.
6. Veterinary clinic.
7. Public and quasi-public uses including churches, schools, hospitals, libraries and museums.
8. Wholesale and warehouse establishments.
9. Radio stations - transmitters.
10. Building trades contractors with storage yard provided materials and equipment are effectively screened from view from any residential lot or public highway.
11. Commercial shopping center with any of the enumerated permitted uses.

(e) **Lot, Yard and Height Requirements.**

1. Minimum lot size shall be 15,000 square feet with public sewer and 30,000 square feet without public sewer. Minimum lot width shall be 75 feet with public sewer and 100 feet without public sewer.
2. Minimum front yard (set back) for all uses and structures shall be 100 feet; side yards 10 feet each; rear yard 25 feet.
3. Maximum height shall be 50 feet.

(f) **Permitted Accessory Signs.**

1. For each establishment or each frontage on a public street or highway, if such establishment is located at the intersection of two public streets or highways, the following signs:
 - a. One detached sign, in the building setback area (front yard), limited in aggregate area to three times the lineal feet of frontage; provided, however, that no detached sign shall exceed 250 square feet in area, no part of the supporting structure shall be closer than 10 feet to the right of way and at least 12 feet of clear space, exclusive of the supporting structure, shall be maintained underneath the sign for visibility purposes.
 - b. One flat, marquee or projecting sign and 40 feet of sign area for each 20 feet of lineal frontage. The sign area may be used in a lesser number of signs than permitted, but the maximum number of signs shall not be exceeded.
2. Temporary signs advertising the sale or lease of property.

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- (a) **Purpose.** This district is intended to provide areas for industrial development. Industrial development shall be located contiguous with or in close proximity to the village of Hortonville or City of New London.
- (b) **Permitted Uses.**
1. Wholesale, warehouse and building supply establishments (except bulk storage of flammable liquids).
 2. Automobile, boat, construction equipment, and farm implement sales and service.
 3. Transportation terminals and distribution centers.
 4. Building contractors and storage yard.
 5. Agricultural related uses including feedmills and co-ops.
 6. Printing and publishing establishments.
 7. Manufacturing uses including production, processing, cleaning, testing and fabricating (except fertilizer and chemical manufacture, canneries and slaughter houses).
 8. Commercial greenhouses.
 9. Bottling, packaging and laboratories.
- (c) **Accessory Uses.**
1. Uses and structures customarily accessory and clearly incidental to permitted principal uses and structures.
 2. Outside storage of materials and equipment (except sand, gravel, coal within 500 feet of a residential district).
- (d) **Conditional Uses.** None.

(e) **Lot, Yard and Height Requirements.**

1. Minimum lot size shall be 20,000 square feet with public sewer and 30,000 square feet without public sewer. Minimum lot width shall be 100 feet.
2. Minimum front yard (set back) for all uses and structures shall be 50 feet; side yards 10 feet each and rear yard 10 feet except where
3. Maximum height shall be 60 feet.
4. Maximum lot coverage of the principal structure shall be 25 percent.

(f) **Permitted Accessory Signs.**

1. Permitted Accessory Signs 1 and 2 in the C-1 Commercial District.

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- (a) **Purpose.** The Critical Areas Overlay (CAO) District is intended to protect the public health and safety by minimizing development in areas prone to unwanted soil erosion and groundwater contamination, and on sites difficult to develop in a safe manner, and promote the general welfare by preserving unique and valuable geologic and other natural resource features of the Town of Hortonia. The regulations of the CAO District are premised, in part, on a shared community vision, discovered and detailed through the comprehensive planning process, that calls for protection of natural resources and unique geologic features found within the Town.
- (b) **General Protection Policies.** It is the policy of the Town of Hortonia that the beneficial functions, structures, and values of critical areas be protected, and, further, that potential dangers or public costs associated with inappropriate use of such areas be eliminated or reduced by reasonable regulation. The standards of the CAO District represent a reasonable balance between individual and collective interests. In striking that balance, the Town recognizes that, because of the wide variety of types of developments, and the relationships between them and their natural environments, it is neither possible or advisable to establish inflexible critical areas protection standards. The standards set forth in this section are presumptive requirements. The reviewing body may permit deviations from these presumptive standards whenever it is determined that such deviations will satisfy the purposes set forth in Sec. 1.05(9) of this ordinance and the Town of Hortonia Comprehensive Plan. In considering the appropriate course of action to follow when allowing deviations from the standards, the preferences set forth below are established to guide development actions; they are in no particular order, and may be mixed to achieve maximum critical areas protection while facilitating reasonable use of property:
1. Avoid the impact altogether by not allowing a particular action unless no reasonable, noncritical area alternatives are available.
 2. Avoid the impact by directing the particular action to noncritical areas on the same site, which may require deviation from the physical or dimensional requirements of this Ordinance (such as setbacks or lot dimensions).
 3. Minimize the impact by limiting the degree or magnitude of the action.

4. Rectify the impact by repairing, rehabilitating or restoring the affected critical area.

(b) **Triggering Applications.** The regulations in this section apply in all zoning districts, and are triggered whenever an application for any of the following actions is filed (hereinafter referred to as “triggering applications”) and it is found that such action is taking place on a parcel of real property containing a designated critical area or its buffer:

1. Any permit or action set forth in this Ordinance;
2. Any permit required by the Town of Hortonia Land Division and Subdivision Ordinance;
3. Clearing and grading permits or permits for any other development activity.

(c) **Exemptions.** The following activities are specifically exempt from the provisions of Sec. 1.05(9), whether or not such activity requires the submission of a triggering application:

1. Existing and ongoing agricultural activities.
2. Normal and routine maintenance and operation of existing irrigation and drainage ditches, swales, canals, detention facilities, wastewater treatment facilities, landscape amenities, farm ponds, fish ponds, manure lagoons and livestock water ponds; provided that such activities do not involve conversion of any critical areas not being used for such activities to another use;
3. Construction, maintenance, operation and repair or replacement of existing utility facilities and associated rights-of-way, including reasonable access roads;
4. Site investigative work in conjunction with the preparation of a land use application submittal, such as surveys, soil logs, percolation tests and other related activities;
5. Maintenance, operation, reconstruction of or addition to existing roads, streets, and driveways;
6. Any projects for which application(s) have been submitted prior to the

adoption of this amended Ordinance.

- (d) **Application of Standards.** No application involving a designated critical area shall be approved unless it is determined to be in compliance with Sec. 1.05(9) of this Ordinance. The standards of Sec. 1.05(9) of this Ordinance shall be applied in addition to other applicable requirements of this Ordinance. Whenever other requirements of this Ordinance conflict with the requirements of Sec. 1.05(9), the most stringent requirements shall govern. In instances where a proposal involves a parcel of real property with more than one critical area the standards that pertain to each identified critical area shall apply. Compliance with Sec. 1.05(9) shall not remove any obligations with respect to applicable provisions of any other federal, state, county or Town regulation.
- (e) **Identification of Critical Areas.** Upon submittal of triggering application, the Permit Issuer shall determine the probable existence of critical areas on the parcel involved in the application. The Permit Issuer shall review and consider the most appropriate, publicly available information in determining the probable existence of critical areas, including, but not limited to, the following:
1. Large scale (1" = 200') Outagamie County topographic maps;
 2. USGS 7.5-minute topographic quadrangle maps;
 3. 1" = 400' aerial photographs;
 4. "Wisconsin Wetland Inventory" maps prepared by the Wisconsin Department of Natural Resources;
 5. Town of Hortonia Comprehensive Plan - Adopted November 2006.
- (f) **Requirement of Access and Additional Studies.** The Permit Issuer may also conduct field investigations with permission of the landowner, and may require private studies be conducted by the applicant, including, but not limited to, the following:
1. Topographic surveys prepared by and certified by a Wisconsin registered land surveyor at a contour interval of not less than two (2) feet.
 2. Field surveys of trees and/or plant material compiled by a landscape

architect, forester, arborist, biologist or botanist with a professional degree in one of those fields of endeavor.

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(g) **Application Process.**

1. Conditional Use Permit Required. Any action taking place on a parcel of real property containing a designated critical area requires that the applicant apply for, and be granted a Conditional Use Permit. If the triggering application is an application for a Conditional Use Permit, such application shall be sufficient to satisfy this requirement.
2. Submission Requirements. Applicants shall submit the following information along with the application for a Conditional Use Permit:
 - a. Ten (10) full size copies of a "Critical Areas Protection Plan" prepared on tracing cloth, reproducible drafting film, or paper of good quality at a map scale as appropriate that correctly shows the following information:
 - b. A drawing legend at appropriate scale with the date of preparation, north arrow, and designation of existing and proposed contours at a minimum two (2) foot contour interval.
 - c. The location of the proposed development activity.
 - d. The names, addresses and telephone numbers of the owners, Subdividers, lessee and/or developer(s) of the property and of the designer of the plan.
 - e. The boundary line of the site with dimensions, indicated by a solid line, and the total land area encompassed by the site.
 - f. The location of any existing or proposed lot lines, right-of-way lines and easements.
 - g. The location and dimensions of all permanent easements on the subject property and boundary lines adjacent to the site.
 - h. The location and extent of any existing critical areas features defined and described in Section 1.05(10)(i through k) below. Each individual resource area on the site shall be graphically and numerically shown on the Critical Areas Protection Plan.
 - i. Graphic and numeric illustration shown on the Critical Areas Protection Plan of those existing critical areas features (in square feet or acres) that will be disturbed and those that will

be preserved. Numeric data may be shown in tabular form with labeled reference to specific areas designated on the Critical Areas Protection Plan.

- j. Graphic illustration and notes relating to how the protection/mitigation measures will be achieved.
3. Application Processing. If the procedures governing the triggering application require Planning Commission or Board of Appeals review, the Critical Areas Protection Plan shall be reviewed, and protection standards applied, by the applicable decision-making body concurrent with the triggering application. In all other cases, the Critical Areas Protection Plan shall be reviewed, and protection standards applied, by following the procedures for Site Plan Review set forth in Section 1.12 of this Ordinance.
- (h) **Required Findings.** In addition to addressing the decision criteria of the underlying triggering application, the decision-making body shall also determine how the Critical Areas Protection Plan meets the protection standards set forth in Sec. 1.05(9) or, when deviation from the standards is permitted, how the plan achieves maximum critical areas protection while facilitating reasonable use of property.
- (i) **Protected Critical Area: Lower Wolf River Bottomlands.**
The purposes of regulating the Lower Wolf River Bottomlands area is to promote safe conditions by: preventing development that requires the placement of roads or structures on soils insufficient for such development; to protect the integrity of surface water resources subject to nonpoint source pollution; to protect the integrity of ground water resources subject to contamination and overuse; to preserve the area as a unique, visually prominent natural feature that contributes to the diversity of landscape of the Town of Hortonia, and to preserve the functions of the Lower Wolf River Bottomlands as a critical wildlife corridor and habitat area.
- 1. Regulated Area. A buffer area extending a minimum of 300 hundred (300) from the periphery of the Lower Wolf River Bottomlands.
 - 2. Prohibited or Regulated Activities.
 - a. All quarrying, sand and gravel pits, and other nonmetallic mining activities are prohibited in the Regulated Area.

- b. No telecommunication tower locating in the Regulated Area shall be located within five thousand (5,000) feet of an existing telecommunication tower; said distance to be measured by a straight line from the base of the nearest existing tower to the base of the proposed tower site.
 - c. No portion of any building or structure shall be constructed within the regulated area without a conditional use permit.
 - d. Grading that occurs within the regulated area shall create a naturally sloped effect that conforms to the topography of the site. Disturbed areas shall be replanted with native vegetation.
3. Exception for Existing Lots of Record. Nothing in Sec. 1.05(9) shall prevent one one-family detached home from being built on any legal lot existing on the effective date of this Ordinance, provided it complies with the other development standards of this Ordinance, any grading ordinances presently in effect, and the development standards of the underlying zone. Where provisions may conflict, the most restrictive shall apply.
- (j) **Protected Critical Area: Riparian Corridors.** The purposes of regulating riparian corridors are to promote safe conditions by preventing land uses inconsistent with preserving and protecting surface waters from the negative affects of nonpoint water pollution; protect important aquatic species and habitat; and maintain lower water temperatures in area streams.
- 1. Regulated Area. A protective buffer extending 100 feet from the high water mark of any perennial stream.
 - 2. Prohibited or Regulated Activities.
 - a. Any activity that permanently alters the landscape within the regulated area including, but not limited to: plowing, gardening, planting of turf grass, and non-native landscaping.
 - b. Removal of existing mature vegetation and existing native species shall be minimized to the greatest extent possible.
 - 3. Exception for Existing Lots of Record. Nothing in Sec. 1.05(9) shall prevent one one-family detached home from being built on any legal lot existing on the effective date of this Ordinance, provided it complies with the other development standards of this Ordinance, any

grading ordinances presently in effect, and the development standards of the underlying zone. Where provisions may conflict, the most restrictive shall apply.

(k) **Protected Critical Area: Woodlands.** The woodlands of the Town of Hortonia significantly contribute to the scenic attractiveness of the town and provide habitat for numerous species of plant and animal life. The purpose of these regulations is to perpetuate the existence of woodlands.

1. Regulated Area. Mature woodlands wherein twenty (20) percent or more of the trees have a diameter-at-breast-height (DBH) of eighteen (18) inches or more. No trees grown for commercial purposes in a dedicated nursery shall be considered a woodland.
2. Prohibited or Regulated Activities.
 - a. Clearing of trees shall be permitted for building footprints, driveways and sites for onsite sewage disposal systems. Building footprints may be cleared a distance of twenty-five (25) feet from the exterior walls of principal buildings and fifteen (15) feet from accessory buildings. Selective pruning of remaining trees shall be permitted, provided that seventy (70) percent of the original canopy is left intact.
 - b. Selective pruning of woodlands shall be permitted, provided that seventy (70) percent of the original canopy is left intact.
 - c. Clear cutting on contiguous land under single ownership shall be permitted, provided that the clear-cut area not exceed the lesser of ten (10) acres or thirty (30) percent of woodlands in any ten-year period. An area clear-cut for commercial purposes shall not be converted or developed for another use within seven (7) years from the date clear cutting was completed.
 - d. Other sound forestry practice techniques (as defined in Chapter 46, Wisconsin Administrative Code) recommended by a qualified forester are permitted if designed to protect or enhance the woodlands.
3. Exception. Exceptions to these restrictions may be granted upon a showing of special needs or circumstances of the landowner.

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- (a) **Purpose.** The purpose of the HCO Highway Corridor Overlay District is to provide standards of development that relate to the special character of lands lying on either side of the major transportation corridor along State Highway 15 (STH 15).
- (b) **Overlay Area Defined.** The overlay district extends along STH 15 from Greendale Road to the eastern boundary of the Village of Hortonville and continues at the western boundary of the Village of Hortonville extending to the eastern boundary of the City of New London. The overlay district is applied to all commercial and industrial parcels abutting the right-of-way of STH 15 and/or any current or future STH 15 frontage roads the but excluding any portion of abutting parcels lying more than twelve hundred (1,200) feet beyond the most westerly and easterly right-of-way line of STH 15 or any current or future STH 15 frontage roads.
- (c) **Permitted Uses.** The overlay district provisions apply to any base commercial or industrial district set forth in this Ordinance that exists within the defined overlay area.
- (d) **Standards.**
1. Building Architecture.
 - a. One dominant material should be selected with its own natural integrity. Materials shall convey permanence, substance, timelessness and restraint, with low maintenance.
 - b. Any exterior building wall (front, side or rear) facing a street and/or STH 15, shall be constructed in visual harmony with the natural landscape and of one of the following materials:
 - i. Clay or masonry brick.
 - ii. Customized concrete masonry with stridiated, scored or broken faced brick type units (sealed) with color consistent with design theme.

- iii. Poured in place, tilt-up or pre-cast concrete. Poured in place and tilt-up walls shall have a finish of stone, a texture or a coating.
- iv. Natural stone.
- c. Non-decorative exposed concrete block buildings are prohibited, as are pre-engineered metal buildings, corrugated metal-sided buildings, and wood sided buildings unless such metal buildings and wood sided buildings are enhanced on all elevations by the application of brick, decorative masonry, or decorative stucco surfaces in combination with decorative fascia overhangs, trim, as detailed above.
- d. Drainage pipes on exterior building walls facing a street and/or STH 15 must be integral to the design and non-apparent.
- e. In the design of buildings or clusters of buildings, developers should orient projects so that the side(s) facing STH 15 form the front of the project. Where fronting toward STH 15 is not feasible due to the location of access roads and other site constraints, the project should be oriented and designed in such a manner so as to convey a pleasing appearance from STH 15 and treated per a through d above.
- f. Where additions are proposed for buildings constructed prior to the effective date of this Ordinance and such buildings do not comply with the standards in this section, such additions need not comply with the standards in this section as long as the addition(s) are not in excess of fifty (50) percent of the existing floor area of the existing building. Any additions in excess of fifty (50) percent of the existing floor area of the existing building constructed prior to the effective date of this Ordinance, shall comply with the standards in this Section.
- g. Exceptions to the Building Architecture standards set forth in this Section may be granted by the Plan Commission, or designee, for structures of comparable design and building materials.

2. Landscaping.

- a. A minimum of fifteen (15) percent of the total area of each lot shall be devoted to landscaped open space.
 - b. All open areas of any lot not used for parking, driveways or storage shall be landscaped with trees, shrubs, berms and planted ground cover. The Plan Commission may require the use of regionally native species. The following species, identified as invasive by the Wisconsin Department of Natural Resources, shall not be utilized for landscaping purposes:
 - i. Norway Maple
 - ii. Bigtooth Aspen
 - iii. Grey Dogwood
 - iv. Red Osier Dogwood
 - v. Wayfaringtree
 - vi. Smooth Sumac
 - vii. Staghorn Sumac
 - viii. Japanese Barberry
 - c. All parking areas shall be landscaped with a buffer strip not less than fifteen (15) feet wide located between the edge of the right-of-way of STH 15 or any current or future frontage road and the surface of the parking area.
 - d. Landscaping shall be adequately maintained for the duration of the approved land use. Failure to adequately maintain landscaping may result in fines of \$100.00 per day with each day of noncompliance constituting a separate offense.
3. Onsite Utilities. All on-site utilities, including but not limited to electrical, telephone, and cable, shall be installed as underground facilities. This shall apply to utilities running from the utility easement or street right-of-way to structures and to utilities supplying service between structures.

4. Building, Sign and Parking Setback Requirements.
 - a. No building shall be constructed nearer than fifty (50) feet from the right-of-way of any public street or highway. Signs and parking area shall be setback twenty-five (25) feet from the right-of-way of any public street or highway.
 - b. Minimum side yards shall be fifteen (15) feet.
 - c. Minimum rear yards shall be twenty-five (25) feet; however, parking shall be allowed with a five (5) foot minimum setback provided a (5) foot landscaped buffer is provided.
5. Lot Size Minimum.
 - a. One and one-half (1 ½) acre minimum for any lot which fronts onto the right-of-way of STH 15, or any of the frontage roads paralleling STH 15.
 - b. Minimum frontage on public street: One hundred fifty (150) feet.
6. Off-Street Parking (refer to Section 1.06(10) Parking and Loading.

(1) **General Application.** The regulations set forth herein shall supplement or modify the regulations set forth in 1.05 Schedule of District Regulations.

(2) **Lot and Yards.**

(a) **More Than One Building on a Lot.** In any district, except the A-1 District, more than one building housing a principal use may be erected on a single lot provided that yard and other requirements of these regulations shall be met for each building as though it were on an individual lot.

(b) **Through Lots and Corner Lots.** On through lots or lots with double frontage, the required front yard shall be provided on each street. On corner lots the street side yard shall equal the required front yard for lots fronting on that street.

(c) **Development in Mapped Streets.** Where an official line has been established for the future widening or opening of a street, the depth of a front yard or the width of a side yard shall be measured from such official line to the nearest line of the building.

(d) **Access.** Every building housing a principal use hereafter erected or moved shall be on a lot with direct frontage of not less than 30 feet on a public road and all such buildings shall be so located as to provide safe and convenient access for servicing and off-street parking.

(e) **Building Groups.** In any non-residential district, a group of buildings separated only by common or party walls shall be considered as one building.

(3) **Accessory Uses and Structures**

(a) **Accessory Building Number Limits.** In the residential district, in addition to the principal building, a detached garage or attached garage and two additional accessory buildings may be placed on a lot.

(b) **Attached Accessory Buildings.** All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.

- (c) **Detached Accessory Buildings.** In any non-agricultural district, no detached accessory building shall occupy any portion of the front yard, and no detached accessory building shall occupy more than 30 percent of the rear yard, or be located within 5 feet of any other accessory building, principal building or lot line.
- (d) **Accessory Structures.** Notwithstanding fences, driveways and parking lots, unless otherwise provided by these regulations, no structure shall be located within 3 feet of any accessory building, principal building or lot line.
- (e) **Accessory Parking and Storage.** There shall be no outside storage of more than two unlicensed motor vehicles.

(4) **Height Exceptions.** The height limitations in Section 1.05 Schedule of District Regulations do not apply to belfries, cupolas, antennas, water tanks, elevator bulkheads, chimneys, spires, flagpoles or other appurtenances usually required to be placed above the roof level and not intended for human occupancy.

(5) **Corner Visibility.** On any corner lot in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one half (2½) feet and ten (10) feet above the centerline grades of the intersecting streets in the area bounded by the right of way lines of such corner lots and a line joining the points along said right of way lines (25) feet from the point of intersection.

(6) **Household Pets.** Household pets shall be permitted in all districts provided that no more than four dogs are kept in any district and that no pets are bred or reared for commercial purposes in any non-agricultural district. Offspring of household pets may be kept and sold from the premises for a period not to exceed eight months.

(7) **Quarries and Gravel Pits.**

- (a) **Intent.** It is the intent of these regulations to permit resource extraction uses as a temporary or transitional use with assurances that later re-use for other permissible uses and structures is possible.
- (b) **Uses and Operations.** Permitted uses or operations shall include the removal of sand, gravel, rock or any mineral. Processing may include crushing, washing or refining. Storing or stockpiling of such materials on the site is permissible. Permissible uses may also include temporary asphalt manufacturing by a portable plant.
- (d) **Area and Setback Requirements.** The parcel shall consist of a minimum of

ten acres with dimensions sufficient to adequately accommodate the proposed uses with minimum adverse affects on adjacent lands. No operations shall be permitted within 100 feet of any exterior boundary of the tract or within 250 feet of any building intended for human occupancy existing at the time of permit application. For operations involving blasting, processing or manufacturing, the Town Board may increase required setbacks as a condition of approval.

- (e) **Location.** Location shall be appropriate to existing development and development which may reasonably be expected within the time period specified herein for permits. The site shall be so located as to make it unnecessary to conduct trucking operations on any Town road.
- (f) **Operation Plan.** Each application for a conditional use shall be accompanied by a plan of operation for the site including the following information:
1. Statement of ownership of the parcel and control of the operations.
 2. Extent of the area to be excavated.
 3. Location, width and grade of all easements or rights of way on or abutting the parcel.
 4. Existing topography by five-foot contour intervals; existing watercourses and drainageways; existing vegetation and soils; depth to groundwater as indicated by at least four borings; and existing buildings or structures.
 5. Cross sections showing extent of stone, sand or gravel deposits and the water table.
 6. Estimated type and volume of excavation; method(s) of extracting and processing; and the sequence of operations.
 7. Proposed equipment and proposed locations of equipment; proposed areas for ponding; proposed drainage modifications; proposed processing and storage areas; proposed interior roads and ingress and egress to the site; and proposed areas for the disposition of overburden or topsoil.
 8. In the event groundwater is to be extracted for operations, a

groundwater monitoring plan consisting of the installation of at least three monitoring wells identifying benchmarks for groundwater elevation, gradient, and quality and annual sampling and testing of the monitoring wells.

- (g) **Reclamation Plan.** Each application for a conditional use shall be accompanied by a reclamation plan meeting the requirements of an adopted reclamation ordinance pursuant to Section 295.12 Wis. Stats., and Chapter NR 135, Wis. Admin. Code. Until such time as the Town adopts such an ordinance under Chapter NR 135, Wis. Admin. Code, any reclamation plan shall be subject to submittal, review and approval by the Outagamie Plan Committee. Submittal and approval of such reclamation plan is a condition of permit approval.
 - (h) **Time Limitations.** No conditional use permit shall be issued for a period exceeding eight years consisting of not more than six years for the operational phase and not more than two years for the restoration phase. Upon expiration of the operational phase, the applicant may request and receive extensions of this phase for three year periods unless changing conditions indicate the extension will be detrimental to the public health, safety and welfare. Any extension shall require the submission of a new plan of restoration if the operation is extended or enlarged. If such extension is denied, the applicant shall complete the restoration phase within the two-year time period specified.
- (8) **Mobile Home Park.**
- (a) **Intent.** It is the intent of these regulations to provide opportunities for mobile home parks as a means of providing balance and variety to housing. All mobile home parks shall submit a site plan.
 - (b) **Character of Tract.** Each mobile home park tract shall be suitable for the development proposed recognizing and preserving to the maximum extent practicable outstanding natural features. Every mobile home park shall be located on a well drained area and the premises shall be properly graded so as to prevent the accumulation of storm or other waters.
 - (c) **Access.** Access shall be designed for safe and convenient movement of traffic into and out of the park. All vehicular traffic into and out of the park shall be through designated entrances and exits.
 - (d) **Streets.** All sites shall abut upon an improved street. The interior streets may

be private streets.

- (e) **Sites**. Each site shall be clearly defined and delineated. Each site shall contain a concrete slab not less than 10 feet by 20 feet in dimension for carport or patio. The slab shall not be required until after the mobile home is in position. Each site shall have an improved driveway.
 - (f) **Mobile Home Standards**. Each mobile home shall be certified as meeting the Mobile Home Construction and Safety standards of the Department of Housing and Urban Development. Each mobile home shall have a visible foundation or skirting around the entire perimeter to form a complete enclosure under exterior walls.
 - (g) **Utilities**. Each mobile home site shall be connected to water and sewer facilities. Each site shall also be provided with electrical power and shall be serviced by individual meters.
- (9) **Private Driveways**. For the purpose of ensuring adequate and effective access to all dwellings for emergency vehicles, any dwelling which is located more than 200 feet from a public road shall be served by a private driveway with a graveled surface width of not less than 22 feet for that portion of the driveway which is over 200 feet from the public road.
- (10) **Parking and Loading**.
- (a) **Purpose**. This subsection establishes the standards for the amount, location, and development of motor vehicle parking, and standards for on-site loading areas. Other Town Ordinances may regulate other aspects of parking and loading. The regulations controlling parking have the following specific objectives:
 - 1. Provide safe, efficient circulation and movement of motor vehicles.
 - 2. Direct traffic in parking areas.
 - 3. Shade and cool parking areas.
 - 4. Provide a pedestrian access that is protected from auto traffic.
 - 5. Improve and soften the appearance of parking areas.
 - 6. Reduce the visual impact of parking areas from sidewalks, streets, and especially from adjacent residential zones.

7. Decrease airborne and waterborne pollution.

- (b) **Applicability.** The regulations of this Section apply to all parking areas in all zones. (3) Occupancy. All required parking areas must be completed and landscaped prior to occupancy of any structures.
- (c) **Use of Required Parking Spaces.** Required parking spaces must be available for the use of residents, customers, or employees of the use. Required parking spaces may not be assigned in any way to a use on another site, except for joint parking situations as allowed by Sec. 13-1-53(7). Required parking spaces may not be used for the storage of goods or inoperable vehicles.
- (d) **Proximity of Parking to Use.** Required parking spaces for residential uses must be located on the site of the use. Required parking spaces for nonresidential uses must be located on the site of the use or in parking areas whose closest point is within 300 feet of the site.
- (e) **Required Parking Spaces.** The minimum or maximum number of parking spaces for all use categories is stated in Exhibit 1. The standards in Exhibit 1 apply unless specifically superseded by other portions of this Ordinance. Alternative standards to those shown in Exhibit 1 may be accepted if the applicant demonstrates that such standards better reflect local conditions. Uses not specifically listed in Exhibit 1 shall be treated as a listed use of a similar nature. Since the purpose of required off-street parking spaces is to provide enough on-site parking to accommodate the majority of traffic generated by the range of uses that might locate at the site over time, the required parking numbers correspond to broad use categories, not specific uses, in response to this long-term emphasis.
 - 1. The number of parking spaces is computed based on the primary use of the site except as stated in Paragraphs 2. and 3. below.
 - 2. When there are two or more separate uses on a site (such as a home occupation), the required parking for the site is the sum of the required parking for the individual uses.
 - 3. When a use has more than twenty (20) percent of its floor area in a distinct function (i.e. office, warehouse, or retail), required parking is calculated separately for each function. An example would be a 40,000 square foot use with a 10,000 square foot office area and a 30,000 square foot warehouse. The required parking would be

computed separately for the office and warehouse.

- (f) **Joint Use Parking.** Joint use of required parking spaces may occur where two or more uses on the same or adjacent sites are able to share the same parking spaces because their parking demands occur at different times. Joint use of required nonresidential parking spaces is allowed if the following documentation is submitted in writing to the Permit Issuer as part of a Building Permit application or Occupancy Permit application:
1. The names and addresses of the uses and of the owners or tenants that are sharing the parking.
 2. The location and number of parking spaces that are being shared.
 3. An analysis showing that the peak parking times of the uses occur at different times and that the parking area will be large enough for the anticipated demands of both uses.
 4. A legal instrument such as an easement or deed restriction that guarantees access to the parking for both uses.
- (g) **Residential Driveway Parking.** Driveway surface areas shall count as off-street parking spaces for the unit served by the driveway if there is an open surface area measuring at least one hundred-eighty (180) square feet and no portion of an automobile parked in the area will extend into public right-of-way.
- (h) **Enlargement of Use.** Whenever a non-residential structure or use is enlarged by twenty-five (25) percent or more of the unit used to calculate parking spaces (e.g. gross floor area, seats, employees, etc) such new parking space requirements must be met.
- (i) **Parking Development Standards.** The following development standards promote vehicle areas that are safe and attractive for motorists and pedestrians. These standards apply to all vehicle areas whether required or excess parking.
1. **Parking Space Dimensions.** The minimum size of a required parking space is nine (9) feet by eighteen (18) feet. Where nonrequired parking is provided on a site, at least one nonrequired parking space must meet the minimum size for required spaces. A portion of a standard parking space may be landscaped instead of paved. The

landscaped area may be up to two (2) feet of the front of the space as measured from a line parallel to the direction of the bumper of a vehicle using the space. Landscaping must be ground cover plants.

2. Disabled Parking. The following disabled person parking standards and access standards are regulated through Uniform Building Code as adopted by the Town.
 - a. Dimensions of disabled person parking spaces and access aisles.
 - b. The minimum number of disabled person parking spaces required.
 - c. Location of disabled person parking spaces and circulation routes.
 - d. Curb cuts and ramps including slope, width and location.
 - e. Signage and pavement markings.
3. Parking Aisle Dimensions. Minimum width of aisles providing access to stalls for one-way traffic shall be eleven (11) feet for thirty-degree (30°) angle parking and twenty (20) feet for ninety-degree (90°) parking. Minimum width of aisles providing access to stalls for two-way traffic shall be twenty four (24) feet.
4. Surfacing. All driveways and parking areas, other than those for residential and agricultural use, must be surfaced with a durable surface consisting of concrete or asphalt or of compacted gravel or crushed stone.
5. Access. All parking areas must be designed to allow vehicles to enter and exit the roadway in a forward motion. However, this does not apply to parking areas with one or two spaces and whose only access is on a local service street.
6. Setbacks and Perimeter Landscaping. Perimeter landscaping of parking areas must meet at least the L2 standard. The landscaping requirements also apply to parking area driveways. Parking areas must meet the setback requirements of the underlying zoning district.
7. Parking Area Interior Landscaping. All hard-surfaced parking areas

with more than ten (10) spaces must provide interior landscaping complying with one or a mix of both the Options stated below. Trees and shrubs must be protected from potential damage by vehicles through the use of bollards, curbs, wheel stops, or other physical barriers. Interior parking area landscaping must be dispersed throughout the parking area. Some trees may be grouped, but the groups must be dispersed. Perimeter landscaping may not substitute for interior landscaping. Parking areas that are thirty (30) feet or less in width, and all non-hard surfaced parking areas may locate their interior landscaping around the edges of the parking area. Interior landscaping placed along an edge is in addition to any required perimeter landscaping.

- a. Option 1. Interior landscaping must be provided at the rate of ten (10) square feet per stall. At least one tree must be planted for every two hundred (200) square feet of landscaped area. Ground cover must completely cover the remainder of the landscaped area.
- b. Option 2. One tree must be provided for every six (6) parking spaces. If surrounded by cement, the tree planting area must have a minimum dimension of four (4) feet. If surrounded by asphalt, the tree planting area must have a minimum dimension of three (3) feet.

| Exhibit 1: Required Parking | |
|--|---|
| Use | Required Off-Street Parking Spaces |
| Residential (per Dwelling Unit) | |
| Single- and Two-Family | |
| 1-3 Bedrooms | 2 per dwelling unit |
| 4 or more Bedrooms | 3 per dwelling unit |
| Multiple-Family | 1 per 1 BR unit, 2 per 2+ BR units, plus 1 per 4 units |
| Mobile/Manufactured Home Parks | 2 per home site, plus 1 per 4 home sites |
| Non-Residential | |
| Automobile Service or Repair | 2 spaces, plus 1 per 100 square feet GFA |
| Bed and Breakfast | 1 per guest room |
| Bowling Alley | 4 per lane |
| Campgrounds | 3 per every 2 campsites |
| Car Wash | 1 per each washing and vacuuming bay |
| Church/Synagogue | 1 per 4 seats |
| Convenience Store | 4 spaces, plus 1 per 250 square feet GLA over 1,000 sq. ft. |
| Financial Institutions | |

| | |
|-------------------------------------|---|
| Funeral Home | 1 per 300 square feet GFA |
| Hotel and Motel | 1 per 3 seats |
| Library | 1 per guest room plus 10 per 1,000 sq. ft. GFA meeting area |
| Offices (Medical and Professional) | 1 per 300 square feet GFA |
| Research | 1 per 250 square feet GFA |
| Restaurant | 1 per 1,000 square feet GFA |
| Dine-in | |
| Fast-food Establishments | |
| Retail Establishments (General) | 1 per 3 seats |
| Service Establishments (General) | 1 per 30 square feet GFA |
| Storage Areas | 1 per 250 square feet GFA |
| Tavern | 1 per 300 square feet GFA |
| Theater | 1 per 5,000 square feet GLA |
| Manufacturing, Industrial (General) | 1 per 3 seats |
| | 1 per 3 seats |
| | 1 per 2 employees on maximum working shift |

(11) **Planned Unit Development (PUD).**

- (a) **Intent.** The intent of the planned unit development provisions is to encourage quality and desirable development by allowing for greater flexibility and design freedom than that permitted under basic district regulations. These regulations are established to permit and encourage diversification, variation and imagination in layout of development; to encourage the preservation of open space; and to encourage more rational, economic development with respect to the provisions of public services.
- (b) **Unified Control.** All land included for development as a PUD shall be under the legal control of the applicant, whether that applicant be an individual, partnership, or corporation or group of individuals, partnerships or corporations. Applicants requesting approval of a PUD shall present firm evidence of unified control of the entire area within the proposed PUD together with evidence that the developer has the unrestricted right to impose all of the covenants and conditions upon the land as are contemplated by the provisions of this chapter. The applicant shall state agreement to:
1. Proceed with the proposed development according to the provisions of these zoning regulations and such conditions as may be attached to the Conditional Use for PUD.
 2. Provide agreements, contracts and deed restrictions necessary for completion of the development according to the approved plans.

3. Bind their successors in title to any commitments made in the approval process.
- (c) **Permitted Uses**. All the permitted uses of the Rural Estate District, Transitional Residential District, Residential District, Commercial District, and Industrial District in which the PUD is located, to allow for additional development flexibility.
 - (d) **General Requirements**. All permitted uses shall be subject to the accessory use and structure, sign, height, and parking requirements of the district in which it is located.
 - (e) **Area and Density Requirements**. A tract of land proposed for development as a planned unit development shall contain a minimum area of five acres and a maximum density of two dwelling units per net acre.
 - (f) **Internal Lots and Frontage**. Within the boundaries of the PUD, no minimum lot size or minimum yards shall be required; provided, however, that no structure shall be located closer to any peripheral property line than a distance equal to the height of such structure.
 - (g) **Access**. Every dwelling unit shall have access to a public street either directly or via an approved private road, pedestrianway, court or other area dedicated to public or private use or common element guaranteeing access. Permitted uses are not required to front on a dedicated public street.
 - (h) **Engineering Design Standards**. Normal standards or operational policy regarding right-of-way widths, provision for sidewalks, streetlighting and similar environmental design criteria shall not be mandatory in a planned unit development, but precise standards shall be made a part of the approved plan and shall be enforceable as a part of this chapter.
 - (i) **Procedures for Approving Planned Unit Developments**.
 1. Preapplication review.
 - a. Before submitting an application for a PUD, an applicant shall confer with the Plan Commission and Plan Commission in connection with the preparation of the application for a planned unit development.

- b. The purpose of the preapplication conference shall be to familiarize both the applicant and the Plan Commission with each other's intentions with respect to the PUD before the applicant enters into binding commitments or incurs substantial expense.
 - c. At the preapplication conference, the Plan Commission shall familiarize the applicant with the PUD process and explain to the applicant issues that should be considered in planning the project. The applicant shall inform the Plan Commission of his development concept through general outlines and sketch plans. Any statement made by either the Plan Commission or the applicant concerning potential disposition of a PUD application or the final form of the development shall not be legally binding.
1. Development plan. A development plan shall accompany the application for a Conditional Use permit and contain the following information:
- a. Names of the owners and developer.
 - b. Scale, date, North arrow.
 - c. Existing streets, buildings, watercourses, easements and utility lines.
 - d. Proposed pattern of public and private streets, accessways and parking areas.
 - e. Locations and arrangements of lots,
 - f. Buildings by dwelling types, open space areas and recreational facilities, if any.
 - g. Architectural drawings and sketches illustrating the design and character of the various buildings proposed.
 - h. Appropriate statistical data on the size of the development, number of dwellings by type, percentage of open space and other data pertinent to review.

- i. General outline of deed restrictions and other documents pertaining to the development, operation and maintenance of the project.
 3. Plan approval. Upon approval of a development plan, a Conditional Use permit shall be issued. All terms, conditions and stipulations made at the time of approval shall be binding upon the applicant or any successors in interest.
 4. Preliminary and final plans. Approval of a development plan for a Conditional Use does not constitute preliminary or final plat approval. Preliminary and final plats shall be submitted and processed in accordance with standard subdivision review procedures.
 5. Changes in plan. Minor changes in plans shall be made by application. Minor changes shall not be considered a reapplication for Conditional Use permit. Substantial changes in plans shall be made by application and processed as a new application for a Conditional Use permit.
 6. Deviations from approved plans. Deviations from approved plans or failure to comply with any requirement, condition or safeguard during approval or platting procedures shall constitute a violation of these zoning regulations.
- (j) **Building Permits.** Final approval does not constitute approval for the construction of individual buildings or structures in the development. Application for building permits shall be submitted and processed in accordance with standard procedures.

(12) **Signs.**

- (a) **Purpose and Intent.** The intent of this section is to provide for and regulate the location and safe construction of signs in a manner to ensure that signs are compatible with surrounding land uses, are well maintained, and express the identity of individual proprietors and the Town as a whole.
- (b) **Compliance.** No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered without conforming with the provisions of this section.

- (c) **Signs Permitted in all Districts Without a Permit.** The following signs are permitted in all zoning districts without a permit, subject to the following regulations:
1. Real estate signs not to exceed 8 square feet in area which advertise the sale, rental, or lease of the premises upon which said signs are temporarily located.
 2. Name, and warning signs not to exceed 2 square feet located on the premises.
 3. Home occupation and professional home office signs not to exceed 2 square feet in area.
 4. Election campaign signs, provided that permission shall be obtained from the property owner, renter, or lessee; and provided that such sign shall not be erected prior to the first day of the election campaign period and shall be removed within 7 days following the election.
 5. Rummage sale and garage sale signs, provided that no such signs shall be erected or placed within a public right-of-way and further provided that such signs are removed within 24 hours following the sale.
 6. Bulletin boards for public, charitable or religious institutions not to exceed 32 square feet in area located on the premises.
 7. Memorial signs, tablets, names of buildings, and date of erection when cut into any masonry surface or when constructed of metal and affixed flat against a structure.
 8. Official signs, such as traffic control, parking restrictions, information, and notices.
 9. Farm identification signs showing the name of the owner or corporate affiliation or memberships not to exceed 16 square feet in area.
- (d) **Signs Permitted in all Residential Districts With a Permit.** The following signs are permitted in any residential district and are subject to the following regulations:

1. Permanent real estate signs placed at the entrance to a subdivision or development shall contain only the name of the subdivision or development and shall meet all the yard requirements of the district in which it is located. The Plan Commission shall determine the appropriate size of the sign based on the design of the sign and its compatibility with adjacent land uses.
 2. Temporary development signs for the purpose of designating a new building or development, or for the promotion of a subdivision may be permitted for a limited period of time provided that the sign shall not exceed 48 square feet in area and shall meet all the yard requirements of the district in which it is located. The Plan Commission shall specify the period of time the sign may remain based on the size of the development allowing a reasonable time to market the development.
- (e) **Signs Permitted in all Agricultural Districts With a Permit.** The following signs may be permitted in all Agricultural Districts and are subject to the following regulations:
1. Wall signs affixed to or painted on farm buildings advertising farm products produced on and/or sold on the premises, or displaying the owner's name shall not exceed 200 square feet.
 2. Ground signs advertising farm products produced on and/or sold on the premises shall not exceed 15 feet in height above the ground surface, shall meet all yard requirements for the district in which they are located, and shall not exceed 100 square feet on one side or 200 square feet on all sides for any one premises.
 3. Directional signs indicating the name of a business or other establishment, and the direction and distance to the establishment. No directional sign shall be placed within the public right-of-way or within the vision clearance triangle of any intersecting streets. No directional sign shall exceed 12 square feet in area.
- (f) **Signs Permitted in Commercial and Industrial Districts With a Permit.** Signs are permitted in all commercial and industrial districts subject to the following restrictions:

1. Wall signs placed against the exterior walls of buildings shall not extend more than 12 inches outside of a building's wall surface; shall not exceed 200 square feet in area for any one premises, and shall not extend above the roof line of the building.
2. Projecting signs fastened to, suspended from, or supported by structures shall not exceed 20 square feet in area for any one premises; shall not extend more than 6 feet into any required yard; shall not extend more than 3 feet into any public right-of-way; shall not be less than 10 feet from all side lot lines; shall not exceed a height of 20 feet above the mean center line street grade; shall not be less than 10 feet from all side lot lines; and shall not be less than 10 feet above the sidewalk nor 15 feet above a driveway or an alley.
3. Ground signs shall not exceed 20 feet in height above the mean center line street grade, shall meet all yard requirements for the district in which it is located, shall not exceed 100 square feet on one side nor 200 square feet on all sides for any one premises.
4. Marquee, awning, or canopy signs affixed flat to the surface of the marquee, awning, or canopy are permitted providing that the sign does not extend vertically or horizontally beyond the limits of said marquee, awning, or canopy. A marquee, awning, or canopy may extend to within one foot of the vertical plane formed by the curb. A name sign not exceeding 2 square feet in area located immediately in front of the entrance to an establishment may be suspended from a canopy provided that the name sign shall be at least 10 feet above the sidewalk.
5. Roof signs are prohibited within the Town.
6. Window signs, except for painted signs and decals, shall be placed only on the inside of commercial buildings.
7. Combinations of any of the above signs shall meet all the requirements of the individual sign.
8. The total number of signs on any premises shall be limited as follows:

Floor Area (Square Feet) Maximum Number of Signs Permitted

| | |
|------------------|---|
| 0 - 5,000 | 2 |
| 5,001 - 20,000 | 3 |
| 20,001 - 50,000 | 4 |
| More than 50,000 | 5 |

Window signs shall not be subject to the limitation on number of signs.

- (g) **Portable Signs.** The Plan Commission may permit the temporary use of a portable sign for advertising purposes in any district provided that the portable sign will not be located in any public right-of-way, will not be located closer than 10 feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Portable sign permits shall not be granted for a period of more than 30 days in any 365 day period. The permit required in sub. (m) below shall be required for portable signs.
- (h) **Facing.** No sign except those permitted in subs. (c) and (d) above shall be permitted to face a residence within 100 feet of such residence.
- (i) **Lighting and Color.** Signs shall not resemble, imitate, or approximate the shape, size, form, or color of railroad or traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of railroad or traffic signs, signals, or devices. Signs shall not be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape; and no sign shall be attached to a standpipe or fire escape. Signs shall not be placed so as to obstruct or interfere with traffic visibility, nor be lighted in such a way as to cause glare or impair driver visibility upon public ways. Signs may be illuminated but non-flashing. Signs shall not be revolving or animated; however, copy on time and temperature devices may be cyclical. Signs in residential districts may be illuminated only with Plan Commission approval. Lighting shall be consistent with the Town of Hortonia Exterior Lighting Ordinance.
- (j) **Construction and Maintenance Standards.**
 1. Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than 40 pounds per square foot of area; and shall be constructed to receive dead loads as required in the Building Code.

2. Protection of the Public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
 3. Maintenance. The owner of any sign shall keep it in good maintenance and repair which includes restoring, repainting, or replacement of a worn or damaged legally existing sign to its original condition; and shall maintain the premises on which the sign is erected in a clean, sanitary, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.
 4. Supporting members or braces of all signs shall be constructed of galvanized iron, properly treated wood, steel, copper, brass, or other non-corrosive incombustible material.
 5. Every means or device used for attaching any sign shall extend through the walls of the building should the Plan Commission determine that the safe and permanent support of such sign so requires and shall be securely anchored by wall plates and nuts to the inside of the walls in accordance with instructions given by the Plan Commission. Small flat signs containing less than 10 square feet of area may be attached to a building by the use of lag bolts or other means to the satisfaction of the Plan Commission.
 6. No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe and no such sign or any part of any such sign or any anchor, brace, or guide rod shall be erected, put up, or maintained so as to hinder or prevent ingress or egress through such door, doorway, or window or so as to hinder or prevent the raising or placing of ladders against such building by a Fire Department, as necessity therefore may require.
- (k) **Existing Signs.** Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued although the size or location does not conform to this Ordinance and shall be subject to the nonconforming use provisions of this Ordinance.
- (l) **Sign Permit.** Application for a sign permit shall be made on forms provided by the Plan Commission or Town Clerk and shall contain or have attached thereto the following information:

1. Name, address, and telephone number of the applicant.
 2. Location of building, structure, or lot to which or upon which the sign is to be attached or erected.
 3. Name of person, firm, corporation, or association erecting the sign.
 4. Written consent of the owner or lessee of the building, structure, or land to which or upon which the sign is to be affixed.
 5. A scale drawing of such sign indicating the dimensions, the materials to be used, the type of illumination, if any, and the method of construction and attachment.
 6. A scale drawing indicating the location and position of such sign in relation to nearby buildings or structures.
 7. Copies of any other permit required and issued for said sign, including electrical permit.
 8. Additional information as may be required by the Plan Commission.
 9. Sign permit applications shall be filed with the Plan Commission, who shall review the application for its completeness and accuracy and approve or deny, in writing, the application within 30 days of receipt from the applicant unless the time is extended by written agreement with the applicant. A sign permit shall become null and void, if work authorized under the permit has not been completed within 6 months of the date of issuance.
- (m) **Bond**. Every applicant for a sign permit shall, before the permit is granted, execute a cash bond or other appropriate surety in a sum fixed by the Plan Commission upon recommendation of the Plan Commission, but not to exceed \$25,000. The form of the cash bond or other surety shall be approved by the Town Attorney, indemnifying the Town against all loss, cost of damages, or expense incurred or sustained by or recovered against the Town by reason of the erection, construction, or maintenance of the sign. A liability insurance policy issued by an insurance company authorized to do business in the State and conforming to the requirements of this section may be permitted by the Town Attorney in lieu of a bond.

- (n) **Measuring Signs.** In calculating the area of a sign to determine whether it meets the requirements of this Ordinance, the Plan Commission shall include the sign copy and any border or frame surrounding that copy. Supporting members of a sign shall be excluded from the area calculation. Area of irregularly shaped signs or signs containing 2 or more detached elements shall be determined by the area of the smallest regular polygon that will encompass all elements of the sign.

(13) **Wireless Communications Towers.**

- (a) **Purpose.** The purpose of this Ordinance is to establish general guidelines for the siting of towers and antennas. The intent of this Ordinance is to:
1. Encourage the location of towers in nonresidential areas and minimize the total number of towers throughout the Town.
 2. Encourage co-location of new and existing tower sites.
 3. Encourage users of towers and antennas to locate them, to the extent possible, in areas where the adverse impact on the community is minimal.
 4. Encourage users of towers and antennas to configure them in a way that minimizes the adverse visual impact of the towers and antennas.
 5. Enhance the ability of the providers of telecommunications services to provide such services to the community quickly, effectively and efficiently.
- (b) **Definitions.** As used in this Ordinance, the following terms shall have the meanings indicated:
1. Alternative Tower Structure: Man-made structures such as clock towers, water towers, buildings, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
 2. Antenna: Any exterior apparatus designed for telephonic, radio or television communications through the sending and/or receiving of electromagnetic waves, digital signals, radio frequencies, wireless telecommunications signals, including but not limited to directional

antennas, such as panel(s), microwave and satellite dishes, and omnidirectional antennas, such as whip antennas.

3. Co-Location: The location of multiple antennas of more than one commercial wireless communications service provider or governmental entity on a single tower or alternative tower structure.
4. FAA: The Federal Aviation Administration.
5. FCC: The Federal Communications Commission.
6. Governing Authority: The governing authority of the Town (Town Board, Plan Commission, Town Clerk).
7. Height: When referring to a tower or other structure, the distance measured from ground level to the highest point on the tower or other structure, even if said highest point is an antenna.
8. Personal Communication Services (PCS): A provider of personal wireless service facilities, as now defined in Section 704 of the Telecommunications Act of 1996, 47 U.S.C. § 322, and as the same may be amended from time to time.
9. Personal Wireless Facility: Transmitters, antenna structures and other types of installations used to provide personal wireless services.
10. Preexisting Towers and Antennas: The meaning set forth in § (13)(c)4 of this Ordinance.
11. Tower: Any structure that is designed and constructed primarily for the purpose of supporting one or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes personal communication service towers, radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.
12. Tower Site: The area encompassing a tower and all supporting equipment, structures, paved or graveled areas, fencing and other items used in connection with said tower.

(c) **Applicability.** No permit is required for the following uses:

1. Installing an antenna or tower on any existing structure (such as a tower, building, sign, light pole, water tower, or other freestanding nonresidential structure), and provided additional antenna or tower adds no more than 20 feet to the height of said existing structure.
2. Public property. Antennas or towers located on property owned, leased or otherwise controlled by the governing authority shall be exempt from the requirements of this Ordinance, provided a license or lease authorizing such antenna or tower has been approved by the governing authority.
3. Amateur radio and receive-only antennas. This Ordinance shall not govern any tower or the installation of any antenna that is under 70 feet in height and is owned and operated by a federally licensed amateur radio station operator or is used exclusively for receive-only antennas.
4. Preexisting towers and antennas. Any tower or antenna for which a permit has been properly issued prior to the effective date of this Ordinance shall not be required to meet the requirements of this Ordinance, other than the requirements of Section (13)(d)3. Any such towers or antennas shall be referred to in this Ordinance as "preexisting towers" or "preexisting antennas."

(d) **General provisions.**

1. Principal or accessory use. Antennas and towers may be considered either principal or accessory uses. A different existing use or an existing structure on the same lot shall not preclude the installation of an antenna or tower on such lot. For purposes of determining whether the installation of a tower or antenna complied with district development regulations, including but not limited to setback requirements, lot coverage requirements, and other such requirements, the dimensions of the entire lot shall control even though the antennas or towers may be located on leased parcels within such lots. Towers that are constructed and antennas that are installed in accordance with the provisions of this Ordinance shall not be deemed to constitute the expansion of a nonconforming use or structure.
2. Aesthetics; lighting.
 - a. Towers shall either maintain a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a light gray so as to reduce visual obtrusiveness and blend in to the natural setting and built environment.
 - b. At a tower site, the design of the buildings and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.
 - c. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment must be of a neutral color that is identical to or closely compatible with the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - d. Towers shall not be artificially lighted, unless required by the FAA or other applicable authority. If lighting is required, the governing authority may review the available lighting alternatives and approve the design that would cause the least disturbance to the surrounding views.
3. Federal requirements. All towers shall meet or exceed current standards and regulations of the FAA, the FCC and any other

agency of the federal government with the authority to regulate towers and antennas.

(e) **Permitted uses.**

1. Permit. An administratively approved permit is required from the Town for the following permitted uses:
 - a. Antennas. Locating an antenna that adds more than 20 feet to the height of an alternative tower structure, including placement of additional buildings or other supporting equipment used in connection with said antenna, shall be a permitted use in all zoning districts.
 - b. Towers. Locating a tower, including placement of additional buildings or other supporting equipment used in connection with said tower, shall be a permitted use in the A-1, C-1, and I Zoning Districts. Construction of new towers is prohibited in residential zoning districts.
 - c. Buildings. Buildings used for the exclusive use of housing antenna and tower equipment shall be no larger than 150 square feet per antenna.
2. Prohibited areas. Locating a tower in a residentially zoned area is prohibited.

(f) **Special exception uses.** Locating a tower, including the placement of additional buildings or other supporting equipment used in connection with said tower, in zoning districts other than the permitted use zones, shall require a special exception use permit.

(g) **Permitting requirements.** Applications for permitted or special exception use permits shall adhere to the following:

1. Any information of an engineering nature that the applicant submits, whether civil, mechanical or electrical, shall be certified by a licensed professional engineer.
2. Information required. Each applicant requesting a permit under this Ordinance shall submit a scaled site plan and a scaled elevation view and other supporting drawings, calculations and other

documentation, signed and scaled by appropriate licensed professionals, showing the location and dimensions of all improvements, including information concerning topography, radio frequency coverage, tower height requirements, setbacks, drives, parking, fencing, landscaping, adjacent uses, and other information deemed by the governing authority to be necessary to assess compliance with this Ordinance.

3. Factors considered in granting permits. The governing authority shall consider the following factors in determining whether to issue a permit, although the governing authority may waive or reduce the burden on the applicant of one or more of these criteria if the governing authority concludes that the intent of this Ordinance is better served thereby.
 - a. Height of the proposed tower.
 - b. Proximity of the tower to residential structures and residential district boundaries.
 - c. Nature of uses on adjacent and nearby properties.
 - d. Surrounding topography.
 - e. Surrounding tree coverage and foliage.
 - f. Design of the tower, with particular reference to design characteristics that have the effect of accommodating other uses and reducing or eliminating visual obtrusiveness.
 - g. Proposed ingress and egress.
 - h. Availability of suitable existing towers and other structures as discussed in Subsection 4 of this section.
4. Availability of suitable existing towers or other structures. No new tower shall be permitted unless the applicant demonstrates to the reasonable satisfaction of the governing authority that no existing tower or structure can accommodate the applicant's proposed antenna. Evidence submitted to demonstrate that no existing tower or structure can accommodate the applicant's proposed antenna may consist of any of the following:

- a. No existing towers or structures are located within the geographic area required to meet applicant's engineering requirements.
- b. Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- c. Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- d. The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures or the antenna on the existing towers or structures would cause interference with the applicant's proposed antenna.
- e. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- f. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.

5. Accommodation of other users (co-location):

- a. Any proposed telecommunications tower and tower site shall be designed, structurally, electrically and in all respects, to accommodate co-location of both the applicant's antenna(s) and comparable antenna(s) for at least two additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
- b. The holder of a permit for a tower shall allow co-location for at least two additional users and shall not make access to the tower and tower site for the additional users economically unfeasible. If additional user(s) demonstrate (through an independent arbitrator or other pertinent means) that the holder of a tower permit has made access to such

tower and tower site economically unfeasible, then the permit shall become null and void.

6. Setbacks and separations. The following setbacks and separation requirements shall apply to all towers and antennas for which a special permit is required; provided, however, that the governing authority may reduce the standard setbacks and separation requirements if the intent of this Ordinance would be better served hereby.
 - a. Towers shall be set back a distance equal to the 125% of the height of the tower from any residential structure.
 - b. Towers, guy wires and accessory facilities must satisfy the minimum zoning district setback requirements.
 - c. Towers over 90 feet in height shall not be located within 1/4 of a mile from any existing tower that is over 90 feet in height.
7. Security fencing. Tower sites shall be enclosed by security fencing and shall be equipped with an appropriate anti-climbing device sufficient to deter the general public from obtaining access to the site.
8. Landscaping. The following requirements shall govern the landscaping surrounding towers; however, the governing authority may waive such requirements if the intent of this Ordinance would be better served thereby. Tower sites located in the A-1, C-1, and I Districts shall meet the requirements detailed in those sections.
 - a. Tower facilities shall be landscaped with a buffer of plant materials that effectively screens the view of the tower site from adjacent property. The standard buffer shall consist of a landscaped strip at least four feet wide outside the perimeter of the security fencing. The Plan Commission may require the use of regionally native plant species.
 - b. In locations where the visual impact of the tower would be minimal, the landscaping requirement may be reduced or waived altogether.

- c. Existing mature tree growth and natural land forms on the site shall be preserved to the maximum extent possible. In some cases, such as towers sited on large woodlots, natural growth around the property perimeter may be sufficient buffer.

- (h) **Removal of abandoned antennas and towers.** Any antenna or tower that is not operated for a continuous period of 12 months shall be considered abandoned. In such circumstances, the following shall apply:
 - 1. The owner of such antenna or tower or owner(s) of the property where the tower site is located shall remove said antenna and/or tower, including all supporting equipment and building(s), within 90 days of receipt of notice from the governing authority notifying the owner of such abandonment. If removal to the satisfaction of the governing authority does not occur within said 90 days, the governing authority may remove and salvage said antenna or tower and all supporting equipment and building(s) at the property owner's expense. If there are two or more users of a single tower, then this provision shall not become effective until all users cease using the tower.

 - 2. The applicant for a permit under this Ordinance shall submit a copy of a signed agreement between the property owner and owner of the tower, antenna(s) and supporting equipment and building(s) detailing requirements for abandonment and subsequent removal based on the provisions of Subsection 1. Said agreement shall also identify that said agreement shall be binding on future property owner(s) and future owner(s) of a tower, antenna and all supporting equipment and building(s).

- (i) **Permit application fees.** Permit application fees as listed in the Town of Hortonia Fee Schedule must be paid and a bond of \$50,000 must be posted for removal of abandoned antennas and towers and proof of payment must be shown when the annual renewal fee as listed in the Town of Hortonia Fee Schedule is paid.

(1) **Applicability.** No building or structure (except signs exempt from the provisions of this ordinance) shall be erected, constructed, reconstructed, altered, moved or enlarged until a building permit has been obtained from the Town Building Inspector.

(2) **Application for Building Permit.** Application for a building permit shall be made in writing upon a form furnished by Town Building Inspector and shall include the following information:

- (a) Name and address of the owner of the land and the owner of the building or structure if different.
- (b) Site layout drawn to scale, showing the actual shape and dimensions of the lot to be built upon; the exact sizes and locations on the lot of buildings or structures already existing, if any; and the exact sizes and locations on the lot of buildings or structures proposed to be erected, constructed, reconstructed, altered or enlarged; and the location and dimensions of all yards.
- (c) The existing and/or proposed use of the structure, building or land.
- (d) Such other information with regard to the lot and existing or proposed buildings or structures as may be necessary to determine compliance with and provide enforcement of these regulations including, but not limited to, a detailed plan of any existing private domestic sewage treatment and disposal system.

(3) **Approval and Issuance of Building Permit.** If the Town Building Inspector determines that the proposed structure or building will comply with the provisions of this ordinance, he shall officially approve and sign one set of plans and return it to the owner or applicant, and shall issue a building permit which shall be kept on display at the site of the proposed building or structure.

(4) **Construction to be as Provided in Applications.** Building permits issued on the basis of applications and plans approved by the Town Building Inspector authorizes only the use, arrangement and construction set forth in such approved applications and plans. Use, arrangement and construction at variance with that authorized shall be deemed a violation of this ordinance.

(5) **Lapse of Permit.** A building permit shall have lapsed and be void unless substantial

construction or operations described in the permit are commenced within one year from the date of its issuance.

(6) **Improper Issuance**. A building permit which was issued in error or under a misstatement of fact by the applicant shall not create any right in such permit, and the Town shall be entitled to revoke such permit.

(7) **Prior Permits**. No building permit lawfully issued by the Town Building Inspector prior to the effective date of adoption or amendment of this ordinance shall be invalidated by the adoption or amendment of this ordinance. Such permit shall remain valid and subsisting subject only to its own terms.

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(1) **General.** A conditional use is a use or structure that may not be appropriate generally or without restriction throughout a district but which, if controlled as to number, area, location or relation to neighborhood, would promote the public health, safety, welfare, comfort, convenience or the general welfare. Such uses or structures may be permissible in a zoning district as a conditional use only if specific provision for such use or structure is made in the district. A conditional use shall not be issued for any other use or structure. All conditional uses shall require approval of the Town Board.

(2) **Procedure.** All applications for a conditional use shall be submitted to the Town Building Inspector. The application shall contain information equivalent to that required for a building permit under section 1.07. The application may also be accompanied by any other material or information necessary to demonstrate that the grant of a conditional use will be in harmony with the general intent and purpose of these zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public interest. The Town Building Inspector shall refer all applications and accompanying materials to the Town Board.

(3) **Public Hearing.** Upon the filing of an application for a conditional use, the Town Board shall fix a reasonable time for a public hearing. A Class 2 notice pursuant to Chapter 985 Stats., shall be published specifying the date, time and place of hearing and the matters to come before the Town Board.

(4) **Conditions and Safeguards.** Where, by the terms of these regulations, certain conditions or requirements are specified for a conditional use or structure such conditions or requirements must be imposed by the Town Board. In addition to the conditions or requirements specified by the terms of these regulations, the Town Board may impose appropriate additional conditions or requirements as deemed necessary to insure the proposed use or structure will serve the objectives of this ordinance and promote the public health, safety, comfort, convenience and general welfare. Violation of such conditions and requirements, when made part of the terms under which the conditional use is granted, shall be deemed a violation of this ordinance.

(5) **Records and Decisions.** The Town Board shall keep a record of its proceedings under this section all of which shall be filed immediately as public records. All decisions under this section shall be taken by resolution in which a majority of the Town Board members must concur. Every final decision under this Section shall be in writing accompanied by findings of fact based on the record. No conditional use shall be approved unless the Town Board shall find:

- (a) The establishment, maintenance or operation of the proposed conditional use or structure at the proposed location will not be detrimental or injurious to the use and enjoyment of existing uses on adjacent properties or properties in the vicinity.
- (b) The establishment, maintenance or operation of the proposed conditional use or structure, alone or in combination with other existing conditional uses and structures in the vicinity, will not cause traffic hazards.
- (c) Adequate provision is made for surface water drainage, ingress and egress to the property and off-street parking.
- (d) Adequate public facilities and services are available for the proposed conditional use or structure.

(6) ***Conditional Uses and Structures in the A-1 District.*** The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any conditional uses and structures in the A-1 Prime Agricultural District. Any conditional use or structure granted in the A-1 District shall be consistent with agricultural use as defined in Section 1.03(2) 59(r) shall be found necessary in light of alternative locations for that use, and shall meet the following conditions:

- (a) The use will not convert land that has been devoted primarily to agricultural use.
- (b) The use will not limit the surrounding land's potential for agricultural use.
- (c) The use will not conflict with agricultural operations on the property.
- (d) The use will not conflict with agricultural operations on other properties.

(1) **Town Building Inspector**. The provisions of this ordinance shall be administered and enforced by the Town Building Inspector who shall be appointed by the Town Board Chairman and confirmed by the Town Board. The Town Building Inspector may request the assistance of any appropriate officer or agency of Outagamie County or the State of Wisconsin in the administration and enforcement of this ordinance.

(2) **Duties and Powers**. The Town Building Inspector shall have the following duties and powers.

- (a) Examine all applications for building permits and issue permits when there is compliance with the provisions of this ordinance. Building permits for structures requiring connection to a private domestic sewage treatment and disposal system shall demonstrate compliance with applicable sanitary codes. All permits shall be examined to insure proposed construction will not interfere with a functioning private domestic sewage treatment and disposal system.
- (b) Receive applications for conditional uses, appeals and variances and refer such applications to the Town Board or Board of Appeals.
- (c) Conduct inspections to determine compliance or non-compliance with the provisions of this ordinance.
- (d) Issue stop, cease, and desist orders, and orders requiring the correction of all conditions found to be in violation of the provisions of this ordinance. Such written orders shall be posted on the property in a conspicuous place and/or served personally or by certified mail upon persons deemed by the Building Inspector to be in violation of the provisions of this ordinance. It shall be unlawful for any persons to violate any such order issued by the Building Inspector.
- (e) Institute in the name of the Town any appropriate action or proceedings to prevent violations of this ordinance.
- (f) Revoke by order, any building permit approved under a misstatement of fact or contrary to the provisions of this ordinance.
- (g) Maintain records of nonconformities and conditional uses.

- (h) Upon the request of the Town Board, Plan Commission or Board of Appeals, present to such persons or bodies, facts, records, or reports which they may request to assist them in making decisions, or assist them in any other way as requested.
- (i) Maintain a map or maps showing the current zoning classification of all lands under the jurisdiction of this ordinance. The Building Inspector shall also insure that a current copy of the Official Zoning Map is available for public inspection.

(3) **Remedies.** Compliance with the provisions of this ordinance shall be enforced by appropriate fines and penalties. Compliance may also be enforced by injunctive suit of the Town or by the owner or owners of real estate within the district affected by the regulation.

(4) **Penalties.** Any person who violates any provision of this ordinance or any order, rule or regulation made hereunder shall, upon conviction, forfeit not less than one hundred dollars (\$100.00) nor more than two hundred dollars (\$200.00) for each offense, together with the costs of prosecution. Each day that a violation continues to exist shall constitute a separate offense.

(5) **Notice of Violation.** If the Building Inspector finds that any of the provisions of this ordinance are being violated, he shall notify, in writing by registered or certified mail, the person(s) responsible indicating the nature of the violation and ordering the action necessary to correct the violation. When ever a person shall have been notified in writing that he is in violation of the provisions of this ordinance, such person shall commence correction of all violations within ten (10) days of notice. If such corrections are not commenced within ten (10) days of written notice or not corrected within forty-five (45) days of written notice, each day that a violation continues shall be considered a separate offense.

(1) **Establishment of Board.** In order that the objectives of this ordinance may be more fully and equitably achieved and a means for interpretation provided, there is established a Board of Appeals (hereinafter referred to as the Board).

(2) **Membership and Terms of Office.**

- (a) **Board Members.** The Board shall consist of five members appointed by the Town Chairman and confirmed by the Town Board. The Town Board Chairman shall designate one of the members of the Board of Appeals as Chairman. Members of the Board of Appeals shall be removable by the Town Board Chairman for cause upon written charges and after a public hearing. A secretary, who does not have to be a Board member shall be appointed by the Board of Appeals.
- (b) **Alternate Members.** The Town Board Chairman may appoint two alternate members to the Board. Annually, the Town Board Chairman shall designate one of the alternate members as first alternate and the other as second alternate. The first alternate shall act, with full power, only when a member of the Board is absent or refuses to vote because of interest. The second alternate shall act only when the first alternate so refuses or is absent or when more than one member of the Board so refuses or is absent.
- (c) **Terms.** Board members shall be appointed to three year terms, except for those first appointed, in which case one member shall serve for one year, two members for two years and two members for three years. Alternate members shall serve staggered terms of three years.
- (d) **Vacancies.** Vacancies shall be filled for the unexpired terms of members whose terms become vacant.

(3) **Procedures, Meetings, Records and Decisions.**

- (a) **Meetings.** Meetings of the Board shall be held at the call of the Chairman and at such other times as the Board may determine. Such Chairman, or in his absence, the acting chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board shall be open to the public.
- (b) **Records and Decisions.** The Board shall keep minutes of its proceedings,

showing the vote of each member upon each questions, 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 as public records. All actions or decisions shall be taken by resolution in which four members, present during the proceedings, must concur. Each resolution or decision shall contain a statement of the grounds forming the basis of such resolution or decision. The Chairman shall notify the Town Board and Town Board Chairman of all decisions and resolutions.

(4) **Appeals.**

- (a) **Powers.** The Board shall have the power to hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this ordinance. The Board may reverse or affirm wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken.
- (b) **Procedures.** Appeals to the Board may be taken by a person aggrieved or by any officer, department, board or bureau of the municipality affected by any decision of the building inspector or other administrative officer. Such appeal shall be taken within thirty (30) days of the order, requirement, decision or determination appealed from by filing with the Building Inspector and with the Board a notice of appeal specifying the grounds thereof. The Building Inspector shall forthwith transmit to the Board all the papers constituting the record upon which the action appealed from was taken. The Board may request the applicant to provide additional information as may be needed to determine the case.
- (c) **Stays.** An appeal shall stay all proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken shall certify to the Board after the notice of appeal shall have been filed with him that by reason of facts stated in the certificate a stay would cause imminent peril to life or property. In such case proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by a court of record on application on notice to the officer from whom the appeal is taken and on due cause shown.

(5) **Variances.**

- (a) **Powers and Duties.** The Board shall have the power to authorize upon appeal a variance from the terms of the ordinance where a literal enforcement of the provisions of the ordinance will result in practical difficulty or unnecessary hardship.
- (b) **Requirements for a Variance.** In general the power to authorize a variance from the requirements of the ordinance shall be sparingly exercised and only under the peculiar and exceptional circumstances. No variance shall be granted for actions which require an amendment to this ordinance. Variances shall only be granted when the Board finds that:
1. The variance is not contrary to the public interest and that such a variance will be in general harmony with the purposes and intent of this ordinance.
 2. The variance will not permit the establishment of a use which is not permitted or permissible in the district.
 3. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same district.
 4. The literal interpretation of the provision of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district.
 5. The hardship is not shared generally by other land or buildings in the area.
 6. The hardship results from the strict application of this ordinance and is not the result of self-created or self-imposed circumstances.

(6) **Powers and Duties - Interpretations.** The board shall have the power to hear and decide applications for interpretations of the zoning regulations and the boundaries of the zoning districts.

(7) **Public Hearings.**

- (a) **Time Period.** Upon filing with the Board an application for an appeal or variance, the Board shall fix a reasonable time [not more than sixty (60) days

from the filing date] for a public hearing.

- (b) **Notice of Hearing.** A Class 2 notice pursuant to Chapter 985, Wisconsin Statutes, shall be published specifying the date, time and place of the hearing and matters to come before the Board. At least 10 days before the public hearing, a written notice shall be given to all adjacent property owners.

- (8) **Appeals for Board Decisions.** Any person or person, jointly or severally, aggrieved by any decision of the Board, or any taxpayer, or any officer, department, board or bureau of the municipality, may within thirty (30) days after the filing of the decision in the office of the Board, commence an action seeking the remedy available by certiorari.

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(1) **Power of Amendment.** The Town Board may amend the regulations and requirements of this ordinance or change the district boundaries of the Official Zoning Maps. A petition for amendment may be made by any property owner of the area to be affected by the amendment, by the Town Board or by any member of the Town Planning Commission. Comprehensive revisions to the ordinance need to be certified by the State Land and Water Conservation Board in order for landowners in the Exclusive Agricultural Zoning District to be eligible to receive tax credits.

(2) **Procedures.** The Town Board shall refer every proposed amendment to the Plan Commission for a report and recommendation. If the Town Board does not receive a report and recommendation from the Plan Commission within 60 days of submitting the proposed amendments, the Town Board may proceed with the necessary hearing.

(3) **Public Hearing and Notice.**

(a) **Required Hearing.** No amendment of this ordinance shall become effective until a public hearing is held before the Town Board where parties in interest and citizens shall have the opportunity to be heard.

(b) **Notice of Hearing.** A Class 2 notice in accordance with Chapter 985 of the Wisconsin Statutes shall be published in the Town's official newspaper once during each of the two weeks prior to such hearing.

At least 10 days before the public hearing, a written notice of such hearing shall be given to all adjacent property owners and also be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed amendment. Failure to give such notice shall not invalidate such amendment.

(4) **Final Approval by Town Board.** An amendment shall become effective upon a majority vote of the members of the Town Board voting on the proposed change. However, in case of a protest against such amendment, duly signed and acknowledged by the owners of 20 percent or more of the land included in such proposed amendment or by the owners of 20 percent or more of the area immediately adjacent extending 100 feet therefrom, or by the owners of 20 percent or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by a unanimous vote of the Town Board.

(5) **Map Amendments in the A-1 Prime Agricultural District.** The Town Board may

approve petitions for rezoning areas in the A-1 Prime Agricultural District after findings are made based on the considerations listed below. The Department of Agricultural Trade and Consumer Protection shall be notified of all such rezonings.

- (a) Adequate public facilities to accommodate development either exist or will be provided within a reasonable time.
- (b) Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of the Town to provide them.
- (c) The land proposed for rezoning is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas.

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- (1) **Purpose.** The Town Board recognizes that zoning, by itself, does not guarantee that new development will integrate into the community. Often, a legally-allowable use may, nonetheless, be incompatible with its proposed environment due to various design factors. Site plan review provides the Town with an opportunity to regulate development to ensure that structures and sites fit harmoniously into the surrounding environment.
 - (2) **Applicability.** Except for buildings and accessory structures consistent with agricultural uses, a site plan permit shall be required for any of the following activities:
 - (a) New construction of a building or other structure, except as provided below.
 - (b) Expansion of an existing use that involves a floor space increase of twenty (20) percent or more within any 10-year period.
 - (c) Change of business or other activity that requires an increase of ten (10) percent or more in the number of off-street parking spaces.
 - (d) Alteration or expansion of an existing parking lot that affects greater than ten (10) percent of the total number of parking spaces.
 - (e) Remodel or exterior alteration of any building or other structure, the cost of which exceeds five (5) percent of the structure's total fair market value as determined by the Permit Issuer.
 - (3) **Initiation of Process: Payment of Fee.** The site plan review process shall be initiated prior to the commencement of any site disturbing activities such as grading, filling, vegetation removal, etc. associated with the proposed activity. Payment of the appropriate fee, as set forth by the Town Board's schedule of fees, shall be made at the time of the preapplication conference.
 - (4) **Pre-application Conference.** To assist the Town and the applicant in the site plan review process, an applicant for site plan review may arrange for a preapplication conference with the Town Board Chair, Permit Issuer, and/or selected Planning Commissioners by submitting forms and sketch plans as prescribed by the Permit Issuer prior to submission of a formal application. A preapplication conference need not include extensive field inspection or correspondence. The purposes of the preapplication conference are to bring about an informal discussion regarding a

proposed project, and to assist the applicant by identifying the following:

- (a) Requirements for submittal, including any other types of permits necessary to complete the proposal.
 - (b) Applicable community plans, goals, policies, codes or guidelines and possible revisions to the proposed project that will enhance the proposal with respect to these requirements.
 - (c) Required plans, studies, reports, and/or other materials specific to the proposal that will provide necessary information for staff to review the project.
 - (d) The discussion at the preapplication conference shall not bind or prohibit the community's future enforcement or application of its codes and ordinances.
- (5) **Formal Application.** Application for site plan review shall include the documents described under 'Submission Requirements' below as may be required by the Planning Commission at its discretion. A copy of the site plan shall be given by the applicant to the Town Clerk to be kept on file for public inquiry. After the application is determined to be complete for purposes of further processing, the Commission may transmit copies of the site plan documents to the Permit Issuer, Plan Commission or other consultant(s), official(s) as deemed necessary, in order to solicit comments. The reviewing officials shall then submit written comments to the Commission within 21 days concerning the potential impacts of the proposed development on the objectives listed under "Standards of Review" below, and any recommended conditions or remedial measures to accommodate or mitigate these expected impacts. Failure of any of the aforementioned parties to respond within the allotted time shall be interpreted as approval of the site plan as proposed.
- (6) **Submission Requirements.** A site plan shall be prepared on standard 24" x 36" sheets, with continuation on 8 1/2" x 11" sheets as necessary for written narrative. The Permit Issuer or other decision-making body may require any of the following items as part of the formal site plan submission:
- (a) Name of the project, boundaries, and location maps showing the site's location in the community, date, north arrow and scale of the plan.
 - (b) Name and address of the owner of record, developer, and seal of the engineer, architect or landscape architect.
 - (c) Names and addresses of all owners of record of abutting parcels and those

within three hundred feet (300') of the property line.

- (d) All existing lot lines, easements, and rights-of-way. Include area in acres or square feet, abutting land uses and the location and use of structures within three hundred feet (300') of the site.
- (e) The location and use of all existing and proposed buildings and structures within the development. Include all dimensions of height and floor area, and show all exterior entrances, and all anticipated future additions and alterations.
- (f) The location of all present and proposed public and private ways, parking areas, driveways, sidewalks, ramps, curbs, fences, paths, landscaping walls and fences.
- (g) Location, type, and screening details for all waste disposal containers shall also be shown.
- (h) The location, height, intensity and coverage area of all external lighting fixtures and indication of compliance with the Town of Hortonia Exterior Lighting Ordinance.
- (i) The direction of illumination and methods to eliminate glare onto adjoining properties must also be shown.
- (j) The location, height, size, materials, and design of all proposed signage.
- (k) The location of all present and proposed utility systems including sewage system; water supply system; telephone, cable and electrical systems; storm drainage system including existing and proposed drain lines, culverts, catch basins, headwalls, endwalls, hydrants, manholes and drainage swales.
- (l) Soil logs, percolation tests and storm runoff calculations for large or environmentally sensitive developments.
- (m) Plans to prevent the pollution of surface or groundwater, erosion of soil both during and after construction, excessive runoff, excessive raising or lowering of the water table, and flooding of other properties as applicable.
- (n) Existing and proposed topography at two-foot (2') contour intervals. If any portion of the parcel is within the 100-year floodplain, the area shall be shown and base flood elevations given. Indicate areas within the proposed site and within fifty feet (50') of the proposed site, where ground removal or

filling is required, and give its approximate volume in cubic yards.

- (o) A landscape plan showing all existing natural land features, trees, forest cover and water sources, and all proposed changes to these features including size and type of plant material. The Town will encourage the use of regionally native plant species. Water sources will include ponds, lakes, brooks, streams, wetlands, floodplains and drainage retention areas.
 - (p) Zoning district boundaries within five hundred feet (500') of the site's perimeter shall be drawn and identified on the plan.
 - (q) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within one hundred feet (100') of the site.
 - (r) For new construction or alterations to any existing building, a table containing the following information:
 1. Area of building to be used for a particular use such as retail operation, office, storage, etc.
 2. Maximum number of employees.
 3. Maximum seating capacity, where applicable.
 4. Number of parking spaces existing and required for the intended use.
 5. Elevation plans for all exterior facades of the proposed structure(s) and/or existing facades, plus addition(s) showing design features and indicating the type and color of signs to be used.
- (7) **Procedure.** For proposals not requiring a Conditional Use Permit, the Commission shall issue its decision on the application within thirty (30) days after the determination that the application is complete. For proposals also requiring a Conditional Use Permit, the Commission shall issue its decision on the site plan application no later than seven (7) days after the hearing held by the Board of Appeals on the proposed Conditional Use Permit if such Conditional Use Permit is granted.
- (8) **Decision of Plan Commission.** The Commission's decision shall consist of either:
- (a) Approval of the site plan.

- (b) Approval of the site plan subject to any conditions, modifications or restrictions as imposed by the Commission.
 - (c) Disapproval of the site plan.
- (9) **Criteria for Review.** During the site plan review process, the Commission shall review the site plan and supporting documents to assess the reasonable fulfillment of the following listed objectives:
- (a) Legal. Conformance with the provisions of the ordinances and rules of the State of Wisconsin, Outagamie County and the Town.
 - (b) Traffic. Convenience and safety of both vehicular and pedestrian movement within the site and in relationship to adjoining ways and properties.
 - (c) Parking. Provisions for the off-street loading and unloading of vehicles incidental to the normal operation of the establishment, adequate parking, adequate lighting, and internal traffic control.
 - (d) Services. Reasonable demands placed on community services and infrastructure.
 - (e) Pollution Control. Adequacy of methods for sewage and refuse disposal, and the protection from pollution of both surface waters and groundwater. This includes minimizing soil erosion both during and after construction.
 - (f) Nuisances. Protection of adjacent and neighboring properties and community amenities from any undue disturbance caused by excessive or unreasonable noise, fumes, smoke, dust, odors, glare, stormwater runoff, etc.
 - (g) Existing Vegetation. Minimizing the area over which existing vegetation is to be removed, unless vegetation to be removed has been identified as invasive or noxious by the Wisconsin Department of Natural Resources. Where tree removal is required, special attention shall be given to planting of replacement trees.
 - (h) Amenities. The applicant's efforts to integrate the proposed development into the existing landscape through design features such as consistent and complimentary architectural design, vegetative buffers and/or the retention of open space.
 - (i) Character. The building setbacks, area and location of parking, architectural

compatibility, signage and landscaping of the development, and how these features harmonize with the surrounding built environment and natural landscape.

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