

ORDINANCE NO. 2015-01

AN ORDINANCE AMENDING THE TOWN OF LOWELL ZONING CODE  
TOWN OF LOWELL, DODGE COUNTY, WISCONSIN

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**WHEREAS**, the Town of Lowell, Dodge County, Wisconsin, is authorized by Wisconsin Statutes Sec. 60.62, Sec. 61.35, and Sec. 62.23 to adopt a zoning Code for the purpose of promoting the health, safety, morals or the general welfare of the Town consistent with the goals, objectives and policies of the Town of Lowell comprehensive plan; and

**WHEREAS**, the Town of Lowell Town Board adopted a comprehensive revision to the Town of Lowell Zoning Code in September, 2004, and

**WHEREAS**, the Town adopted the Town of Lowell 2030 Comprehensive Plan in July, 2009; and

**WHEREAS**, on December 2, 2014, the Town of Lowell Plan Commission held a public hearing of a series of proposed code amendments attached hereto as Exhibits "A" through "F" for purposes of soliciting comments from the Town's residents and property owners concerning said amendments to the Zoning Code; and

**WHEREAS**, the Town of Lowell Plan Commission has recommended to the Town Board that the proposed amendments contained in the exhibit attached hereto are necessary and appropriate and that said amendments should be adopted by the Town Board and be forwarded to Dodge County for review and approval; and

**NOW, THEREFORE, THE TOWN BOARD OF THE TOWN OF LOWELL, DODGE COUNTY, WISCONSIN, ORDAINS AS FOLLOWS:**

**Section 1. Adoption of Amendments.**

The amendments contained in Exhibits "A" through "F" are hereby ADOPTED and shall be made part of the Town's Zoning Code after review and approval by the Dodge County Board of Supervisors, as required under Wisconsin Statutes Sec. 60.23(3).

**Section 2. Effective Date.**

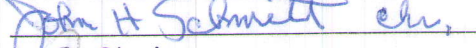
This Code shall take effect the day after the proof of posting in accordance with Wisconsin Statutes Section 60.80(1) has been filed with the Town Clerk, and, after review and approval by the Dodge County Board of Supervisors.

**ADOPTED** and approved this day, March 10, 2015.

ATTEST and CERTIFIED:

  
Town Clerk

Town Board, Town of Lowell

  
Town Chairman

  
Supervisor #1

  
Supervisor #2

# EXHIBIT "A"

## Town of Lowell Zoning Code Amendment

Section 13-1-46 is amended to read as follows where words that are underlined are to be added and words that are ~~stricken~~ are to be deleted:

### **Sec. 13-1-46 AG-I General Agricultural District.**

- (a) Purpose and Characteristics. The AG-I General Agricultural District is intended to provide for, maintain, preserve, and enhance agricultural lands historically utilized for crop production and maintain the existing rural character.
- (b) Permitted Uses.
  - (1) Dairy farming (limited to operations with less than 500 animal units; see Section 13-1-7).
  - (2) Floriculture and florists.
  - (3) Forestry.
  - (4) Grazing and pasturing.
  - (5) Greenhouses and plant nurseries.
  - (6) Fish Hatcheries.
  - (7) Fur farms.
  - (8) Horticulture.
  - (9) Livestock raising (limited to operations with less than 500 animal units; see Section 13-1-7).
  - (10) Orchards and vineyards.
  - (11) Paddocks and stables.
  - (12) Poultry raising (limited to operations with less than 500 animal units; see Section 13-1-7).
  - (13) Essential services for farming.
  - (14) Single family dwelling residences and necessary appurtenant structures on any operating farm for occupancy by those employed in connection with the farm operation and their families at a density not to exceed one (1) dwelling unit per thirty-five (35) acres.
  - (15) Minor Home occupations and professional home offices (see Section 13-1-72).
  - (16) Accessory Dwelling Unit (attached) subject to the provisions of 13-1-77.

(c) Conditional Uses.

- (1) Aircraft landing fields and hangars (see Section 13-1-73).
- (2) Commercial greenhouse, landscape and nursery business.
- (3) Sanitary landfill that serves the needs of Town residents.
- (4) Duplexes (two-family dwellings) and necessary appurtenant structures on any operating farm for occupancy by those employed in connection with the farm operation and their families subject to the provisions of the RC-1 district.
- (5) Farm machinery repair businesses.
- (6) Governmental and cultural uses (see Section 13-1-73).
- (7) Utilities (see Section 13-1-73).
- (8) Gravel pits and quarries, but not including the manufacture of products other than the production of crushed stone, gravel or sand (see Section 13-1-74).
- (9) Dog kennels and horse boarding (see Section 13-1-76).
- (10) Major Home occupations and professional home offices (see Section 13-1-72).
- (11) Landscape contracting.
- (12) Storing, manufacturing and sale of explosives (limited to such uses existing as of January 1, 2009 and which are deemed to be non-conforming uses subject to Section 13-1-80).
- (13) Agricultural and other compatible uses of existing farm structures.
- (14) Farmettes (see Section 13-1-46(f)).
- (15) Agricultural operations listed as permitted or conditional uses on substandard lots existing prior to the adoption of this ordinance.
- (16) Rifle/shotgun ranges.
- (17) Accessory Dwelling Unit (detached) subject to the provisions of 13-1-77.

(d) AG-1 Site Regulations (Principal Structure).

- (1) Lot Width.
  - a. Minimum: Two hundred fifty (250) feet.
- (2) Lot Size.
  - a. Minimum: Thirty-Five (35) acres. (except lots created under the provisions of the RC-1 Rural Cluster Overlay District).
- (3) Agriculture Structure Height.
  - a. Maximum: None.
- (4) Residential Structure Height.
  - a. Maximum: Thirty-five (35) feet.
- (5) Setbacks for Primary Agricultural Structures.
  - a. Street Yard: Seventy-five (75) feet unless otherwise specified in Section 13-1-24 due to the highway classification whichever is greater.
  - b. Side Yard: Ten (10) Twenty five (25) feet.

- c. Rear Yard: ~~Twenty five (25)~~ Ten (10) feet.
- (6) Setbacks for Secondary Agricultural Structures (non residential).
  - a. Street Yard: Seventy-five (75) feet unless otherwise specified in Section 13-1-24 due to the highway classification whichever is greater.
  - b. Side Yard: ~~Twenty five (25)~~ Ten (10) feet.
  - c. Rear Yard: ~~Twenty five (25)~~ Ten (10) feet.
- (e) Farmette Regulations. A farmette is a small farm containing pre-existing farm buildings that is at least five (5) acres in size created by a land division usually because of a farm consolidation. A farmette is intended to be used for hobby farm or other small-scale agricultural uses.
  - (1) Lot Size.
    - a. Minimum: Five (5) acres.
    - b. Maximum: to be determined by the Plan Commission but not to exceed fifteen (15) acres based on the suitability of the land and existing buildings for the intended use and the required setbacks surrounding the existing buildings deemed necessary by the Plan Commission to buffer adjacent uses and parcels.
  - (2) Lot Width.
    - a. Minimum: None.
  - (3) Agriculture Structure Height.
    - a. Minimum: None.
  - (4) Residential Structure Height.
    - a. Maximum: Thirty-five (35) feet.
  - (5) Minimum Setbacks.
    - a. Street Yard: Seventy-five (75) feet unless otherwise specified in Section 13-1-24 due to the highway classification whichever is greater.
    - b. Side Yard: ~~Twenty five (25)~~ Ten (10) feet.
    - c. Rear Yard: ~~Twenty five (25)~~ Ten (10) feet.
- (f) Animal Unit Restrictions. Unless otherwise specifically allowed or restricted as part of a conditional use permit, variance or previously existing as a legal non-conforming use prior to January 1, 2010, the number of animal units (see "animal unit" definition in Section 13-1-7) allowed to be kept on a parcel of land shall be limited as follows:
  - (1) Parcel <= 3 acres: One (1) animal unit.
  - (2) Parcel 3 to 15 acres: One (1) animal unit for the first three (3) acres plus one (1) additional animal unit per each additional acre.
  - (3) Parcel >15 acres: No limit.

# EXHIBIT "B"

## Town of Lowell Zoning Code Amendment

Section 13-1-7 is amended to read as follows where words that are underlined are to be added and words that are ~~stricken~~ are to be deleted:

### 13-1-7 Definitions.

(6a) **Animal Unit.** A unit of measure used to determine the total number of a single animal type or a combination of animals types which are allowed to be kept, fed, confined or stabled on a property located in the RC-1: Rural Cluster Residential Overlay District and AG-1: Agricultural Zoning Districts (but not applicable in the AE: Agricultural Enterprise District), where one (1) animal unit equals the following:

Animal Type	Number of Animals Equal to One (1) Animal Unit
Cattle, Buffalo or other Livestock	1
Horse, Mule or Donkey	1
Pony or Small Horse (<35" at withers)	3
Swine	5
Goat, Sheep, Llama, Alpaca, Emu or Ostrich	5
Poultry	50
Mink, Rabbit or other fur-bearing animals	50

(41) **Dwelling Unit.** One or more rooms in a dwelling, which is designed, occupied, or intended for occupancy as separate living quarters, with an individual entrance, cooking, sleeping and sanitary facilities provided within the dwelling unit for the exclusive use of one (1) household. ~~A building or portion thereof used exclusively for human habitation, including single-family, two-family and multi-family dwellings, but not including hotels, motels or lodging houses.~~

(41b) **Dwelling Unit, Accessory (Attached):** A second dwelling unit including separate kitchen, sleeping and sanitation facilities, and entrance, within or on a lot with a primary residence. The second unit shares one or more common or abutting walls, and is created auxiliary to and is always smaller than the primary residence.

(41c) **Dwelling Unit, Accessory (Detached):** A second dwelling unit including separate kitchen, sleeping, and sanitation facilities, on a lot with a primary residence. The second unit is created auxiliary to and is always smaller than the primary residence.

# EXHIBIT "C"

## Town of Lowell Zoning Code Amendment

Section 13-1-47 is amended to read as follows where words that are underlined are to be added and words that are ~~stricken~~ are to be deleted:

### **Sec. 13-1-47 C-I Conservancy Overlay District.**

- (a) Purpose and Characteristics. The C-I Conservancy Overlay District is intended to be used to prevent destruction of valuable natural or man-made resources and to protect watercourses and areas that are not adequately drained, or which are subject to periodic flooding, where development would result in hazards to health or safety, or would deplete or destroy natural resources or be otherwise incompatible with the public welfare. The District includes county-designated primary environmental corridors. The C-I District provides for additional uses which are not permitted in the underlying districts but also sets forth additional regulations.
- (b) Permitted Uses.
- (1) Hiking, fishing, trapping, hunting, swimming, and boating, unless prohibited by other ordinances or laws.
  - (2) Harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops and that does not involve filling, flooding, draining, dredging, ditching, tiling, or excavating.
  - (3) Silviculture, including the planting, thinning, and harvesting of timber.
  - (4) Pasturing of livestock and the construction and maintenance of fences, provided that no filling, flooding, draining, dredging, ditching, tiling, or excavating is done.
  - (5) Cultivation of agricultural crops if cultivation can be accomplished without filling, flooding, or artificial drainage of the wetland through ditching, tiling, dredging or excavating except that flooding, dike and dam construction, and ditching shall be allowed for the purpose of growing and harvesting cranberries.
  - (6) Ditching, tiling, dredging, excavating, or filling done to maintain or repair an existing agricultural drainage system only to the extent necessary to maintain the level of drainage required to continue the existing agricultural use.
  - (7) Construction and maintenance of piers, docks, walkways, observation decks, and trail bridges, including those buildings on pilings, provided that no filling, flooding, dredging, draining, ditching, tiling, or excavating is done, except limited filling for access ramps.



- (8) Maintenance, repair, replacement, and construction of existing streets, roads, highways, and bridges.
- (c) Conditional Uses. The following public and private recreational facilities shall be conditional uses and may be permitted as specified (provided that the lot area is not less than three (3) acres and all structures are not less than fifty (50) feet from any district boundary):
- (1) Archery ranges.
  - (2) Boating.
  - (3) Camps.
  - (4) Conservatories.
  - (5) Utilities (see Section 13-1-73).
  - (6) See Section 13-1-75.
  - (7) Rifle/shotgun ranges.
  - (8) Other agricultural use as approved by the Plan Commission that does not significantly destroy or negatively impact the environment and does not include structures in county-designated floodplains.
- (d) Structures Prohibited. No structures shall be placed or moved onto lands lying in the C-I District, except structures not exceeding an area of five hundred (500) square feet which are accessory to principal or conditional uses. Habitable buildings or structures used for dwelling purposes are prohibited.
- ~~(e) Filling and Draining Improvements Prohibited. Except as otherwise provided in this Section, filling, flooding, draining, dredging, ditching, tiling or excavating is prohibited in the C-I District.~~
- (f) Incompatible Uses Prohibited. No on-site soil absorption sanitary sewage system, holding tank, or private well used to obtain water for ultimate human consumption shall be constructed in the C-I District.



# EXHIBIT "D"

## Town of Lowell Zoning Code Amendment

Section 13-1-49 is amended to read as follows where words that are underlined are to be added and words that are ~~stricken~~ are to be deleted:

### 13-1-49 AE Agricultural Enterprise District.

- (a) Purpose and Characteristics. The AE Agriculture Enterprise District is intended to preserve and promote a full range of agricultural uses, secure land for livestock production and other agricultural uses that may be more intensive than crop production. The AE District is intended to implement the requirements of and be consistent with Wisconsin's Livestock Facility Siting Law established in Wis. Stats. 93.90 and Wis. Admin. Code ATCP 51. The AE District is intended to implement applicable 2020 Comprehensive Plan goals, objectives and policies by encouraging livestock and other agricultural uses in areas where conditions are best suited for these agricultural uses and discourage non-farm residential development to avoid potential land use conflicts. The AE district is generally compatible with the "Agricultural" areas designated on the Future Land Use Plan Map in the 2020 Comprehensive Plan. Due to the more intensive nature of uses allowed, the AE district is not intended to be applied within the "Agricultural Transition" areas designated on the Future Land Use Plan Map in the 2020 Comprehensive Plan.
- (b) Permitted Uses.
- (1) General Agricultural uses, including: floriculture, forestry, grazing and pasturing, greenhouses, florists, plant nurseries, orchards, hatcheries, horticulture, viticulture.
  - (2) Livestock facilities with less than 500 animal units; see Section 13-1-49(f)(10).
  - (3) Paddocks and stables.
  - (4) Single-family residences and accessory structures thereto for occupancy by those employed in connection with the agricultural operation and their families.
  - (5) Minor Home occupations and professional home offices (see Section 13-1-72).

(c) Conditional Uses.

- (1) Aircraft landing fields and hangars (see Section 13-1-73).
- (2) Livestock facilities and animal confinement facilities with more than 500 animal units (see Section 13-1-~~49(f)(10)~~ 13-1-73).
- (3) Commercial greenhouse, landscape and nursery business.
- (4) Sanitary landfill that serves the needs of Town residents.
- (5) Governmental and cultural uses (see Section 13-1-73).
- (6) Utilities (see Section 13-1-73).
- (7) Rifle/shotgun ranges.
- (8) Gravel pits and quarries, but not including the manufacture of products other than the production of crushed stone, gravel or sand (see Section 13-1-74).
- (9) Major Home occupations and professional home offices (see Section 13-1-72).
- (10) Agricultural operations listed or permitted as conditional uses herein on substandard lots in existence prior to the adoption of this ordinance.

## **EXHIBIT "E"**

### **Town of Lowell Zoning Code Amendment**

Section 13-1-133 is appealed and replaced to read as follows:

#### **13-1-133 Mobile Service Telecommunication Facilities.**

(a) Purpose. The purpose of this ordinance is to regulate by zoning permit (1) the siting and construction of any new mobile service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and mobile service facilities.

(b) Definitions. All definitions contained in Wis. Stats. 66.0404(1) are hereby incorporated by reference.

(c) Siting and Construction of any New Mobile Service Communication Support Structure and Facility.

(1) Application Process.

- a. A town zoning permit is required for the siting and construction of any new mobile service support structure and facilities. The siting and construction of any new mobile service support structure and facilities is a conditional use in the town obtainable with this permit.
- b. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
  1. The name and business address of, and the contact individual for, the applicant.
  2. The location of the proposed or affected support structure.
  3. The location of the proposed mobile service facility.
  4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and

network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- c. A permit application will be provided by the town upon request to any applicant.
  - d. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  - e. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:
    1. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.

2. Make a final decision whether to approve or disapprove the application.
  3. Notify the applicant, in writing, of its final decision.
  4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
- f. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph (c)(1)b.6 above.
  - g. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.
  - h. The fee for the permit is established by Town Resolution; see the Town Clerk for the current fee schedule.

(d) Class I Collocation.

(1) Application Process

- a. A town zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the town obtainable with this permit.
- b. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
  1. The name and business address of, and the contact individual for, the applicant.
  2. The location of the proposed or affected support structure.
  3. The location of the proposed mobile service facility.
  4. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers,

base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

5. If the application is to construct a new mobile service support structure, a construction plan which describes the proposed mobile service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new mobile service support structure.
  6. If an application is to construct a new mobile service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting that collocation within the applicant's search ring would not result in the same mobile service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the mobile service provider.
- c. A permit application will be provided by the town upon request to any applicant.
- d. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
- e. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:
1. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.
  2. Make a final decision whether to approve or disapprove the application.

(a) Notify the applicant, in writing, of its final decision.

(b) If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

f. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph (d)(1)b.6. above.

g. If an applicant provides the town with an engineering certification showing that a mobile service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.

h. The fee for the permit is established by town resolution; see the town clerk for the current fee schedule.

(e) Class 2 Collocation.

(1) Application Process.

a. A town zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the town but still requires the issuance of the town permit.

b. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:

1. The name and business address of, and the contact individual for, the applicant.
2. The location of the proposed or affected support structure.
3. The location of the proposed mobile service facility.

c. A permit application will be provided by the town upon request to any applicant.

d. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.



- e. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If any of the required information is not in the application, the town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
  - f. Within 45 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 45 day period:
    - 1. Make a final decision whether to approve or disapprove the application.
    - 2. Notify the applicant, in writing, of its final decision.
    - 3. If the application is approved, issue the applicant the relevant permit.
    - 4. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
  - g. The fee for the permit is established by town resolution; see the town clerk for the current fee schedule.
- (f) Penalty Provision. Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$100 nor more than \$10,000, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

# EXHIBIT "F"

## Town of Lowell Zoning Code Amendment

Section 13-1-77 is created to read as follows:

### **Sec. 13-1-77 Accessory Dwelling Units (ADU's).**

- (a) Intent. Accessory dwelling units (ADU's) are a second dwelling unit located on a property that is intended to be an accessory or secondary use of that property. ADU's are created auxiliary to, and smaller than, the primary dwelling on a property. ADU's can be created in a variety of ways, including conversion of a portion of an existing house, addition to an existing house, conversion of an existing garage or the construction of an entirely new and detached building. ADU's are also known as "mother-in-law suites", "care-giver suites", "guest quarters" and "granny flats".
- (b) Minimum Standards.
  - (1) Property Size. The property upon which an ADU is proposed shall not be less than three 3(3) acres in area, or, the minimum parcel size required in order to accommodate the ADU and a replacement or expanded septic system.
  - (2) Size. The ADU may have no more than two (2) bedrooms and cannot exceed in size (gross square feet) more than 50% of the total living area (gross square feet) of the primary dwelling or a maximum of 1,000 square feet, whichever is less.
  - (3) Only one ADU will be allowed per property with an existing single-family residence. ADU's are not allowed on lots containing a duplex. A detached ADU will not be allowed on a property containing an existing attached ADU, and, an attached ADU will not be allowed on a property containing a detached ADU.
  - (4) A detached ADU shall be located in a side or rear yard of the property and within 150 feet of the primary dwelling.
  - (5) An ADU cannot be used as a rental unit or property.
  - (6) Attached vs. Detached. The standard for attached versus detached ADUs is as follows:
    - a. Detached buildings. To be considered a detached building, the ADU must be located in the side or rear yard of the property and at least 25 feet behind the primary dwelling.
    - b. Attached buildings. To be considered attached, living space of both the primary dwelling and ADU must abut, i.e. share a common wall, or, be connected by a breezeway, garage, or other enclosed structure constructed on a foundation where the length of the connecting structure cannot exceed twice the width. Features such as trellises, decks, patios, or other

unenclosed structures will not be considered an attached structure.

- (7) A detached ADU shall not be approved unless and until a legal covenant or title notice is recorded on the property which will generally state that the accessory dwelling located on this property may not be sold as a separate residence until such time as the accessory dwelling is located as the sole residence on a legally subdivided parcel. Said covenant shall also contain whatever additional conditions or stipulations are approved by the Town for ADU's requiring a conditional use permit.