

Village of Boyceville Municipal Code – Title 13

TITLE 13 – ZONING

CHAPTER 1: GENERAL

Sec. 13-1-1. Introduction; authority, purpose, and interpretation.

In accordance with applicable state statutes and pursuant to the specific authority granted by Wis. Stats. §§ 61.35 and 62.23, and for the purposes listed in Wis. Stats. § 62.23, the village ordains these zoning regulations. The provisions of this title are minimum requirements adopted to promote the health, safety, comfort, prosperity, and general welfare of the Village of Boyceville.

This title shall not repeal, impair, or modify private covenants or other public ordinances, except that this title shall apply whenever it applies a more restrictive regulation on land use.

Sec. 13-1-2. Zoning districts and map.

The village zoning districts shall be as follows:

1. Single-family residence district (R-1).
2. Limited Single-family residence district (R-1A).
3. Two-family residence district (R-2).
4. Multiple-family residence district (R-3).
5. Manufactured Home District (MH-1).
6. Business/Commercial districts:
 - a. Central business district (B-1).
 - b. Limited commercial district (B-2).
 - c. General commercial district (B-3).
7. Industrial district (I-1).
8. Planned development district (P-1).
9. Conservancy district (C-1).
10. Agricultural district (A-1).

The official zoning map of the Village is an integral part of this title. The single official copy of the official zoning map which is entitled "Village of Boyceville Official Zoning Map," together with a copy of this title, shall be available for public inspection at the village offices during office hours. Any changes in zoning district boundaries shall be recorded on the map.

The district boundaries consist of either streets or alleys unless otherwise indicated. Where the district boundaries are not otherwise indicated and where the property has been divided into blocks and lots, the district boundaries shall be lot lines, and where the designations on the map are approximately bound by lot lines, such lot line shall be construed to be the boundary of the district. In property that is not subdivided, the approximate district boundary shall be as represented on the zoning map by use of the scale shown on such map.

All territory annexed by the village shall become part of the R-1 district until definite boundaries and regulations to the contrary are recommended by the Plan Commission and adopted by the Village Board.

Sec. 13-1-3. Rezoning.

All petitions for rezoning any parcel of land, whether such parcel was previously subdivided, shall include a precise legal description of the land proposed to be rezoned, the present zoning classification, and the proposed zoning classification, and shall be executed by all the persons and entities having a recorded interest in fee title.

The applicant shall pay the Village a fee as provided in Fine and Fee Schedule to assist in defraying the costs of considering such a petition. The fees shall not be refunded if the proposed rezoning is denied in whole or in part.

The Village Clerk shall make notice of a public hearing by publishing a class 2 notice. The Clerk shall also provide individual notice to property owners who have requested such notice and follow the procedures as defined in Sec. 13-10-7. The Plan Commission shall hold a public hearing on the petition for rezoning and make a recommendation to the Village Board regarding request following the procedures established in sections Chapter 3 for conditional uses.

Sec. 13-1-4. General provisions.

(a) *Condominiums.* Condominiums shall be subject to all provisions of this chapter. Each condominium plat shall be prepared in accordance with Wis. Stats. § 703.11.

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(b) *Accessory buildings.* Accessory buildings shall not occupy more than 30 percent of the area for the rear yard. Any accessory building projected forward of the rear building line of the principal building shall be deemed part of the principal building for front and side yard setback requirements.

(c) *Yard setbacks.* In determining and applying front, rear, and side yard setbacks, measurements shall be to the nearest part of the walls of buildings and other structures, excluding steps, decks, fire escapes, eaves, and other ornamental features, provided such features shall project not more than five feet from a principal building, nor more than two feet from an accessory building into the required setback.

(d) *Traffic vision triangle.* In each quadrant of every street intersection there shall be maintained a vision clearance triangle bounded by the street right-of-way lines and a straight line between the two points thereon 35 feet from the intersection of the street right-of-way lines, within which no structure, vegetation, or other object shall be allowed above a height of 2½ feet above the lowest part of the adjoining street grades, nor below a height of ten feet above the highest part of the adjoining street grades. However, the Public Works Director may permit structures, vegetation, or other objects therein not otherwise prohibited by this Code to be maintained therein in such manner that does not significantly obstruct the view across such triangle by pedestrians and operators of motor vehicles on the adjoining streets, but shall require removal of all or part of any structures, vegetation, or other objects therein which significantly obstruct such view.

(e) *Minimum lot width.* Each lot shall abut a public street and have minimum widths as provided in this title for the zoning district in which it is located. Minimum width at the street right-of-way line shall be measured in a straight line between the points of intersection of the side lot lines with the street right-of-way line. Minimum width at the front yard setback line shall be measured in a straight line between the points of intersection of the side lot lines with the front yard setback line. If no front yard setback is required, such minimum width shall be measured at the street right-of-way line as provided in this subsection.

(f) *Household goods and other sales.*

- (1) In any residential district, the residents of any dwelling unit may offer household goods for sale which have been owned by such residents for not less than 90 days prior to such sale. Household goods shall include furniture, appliances, personal tools, motor vehicles, watercraft, snowmobiles, and similar goods normally used and/or stored at such residential premises. No sale offering shall exceed 16 consecutive days' duration, nor shall any residential unit have more than two such sales per calendar year, regardless of which persons are involved in such sales.
- (2) In any commercial or industrial district, the owners and/or tenants of any premises may offer goods and/or services for sale which are not normally sold at such premises. No sale offering shall exceed 30 consecutive days' duration, nor shall any premises have more than two such sales per calendar year, regardless of which people are involved in such sales.

(g) *Nonconforming uses.* Present uses of buildings, fences, and premises existing before the adoption date of this title, may be continued even though they do not conform to the restrictions of this current chapter. However, structural repairs or alterations of such buildings, fences, or premises shall not, during their lives, exceed 50 percent of the current fair market value unless a building, fence, or premises conform to this title. Any nonconforming use that is abandoned for one year shall be permanently discontinued. Any nonconforming use which is destroyed or is substantially damaged can only be replaced if it meets current ordinances. A structure is considered substantially damaged if the cost to restore is more than 50 percent of its pre-damaged value.

(h) *Review of uses.* Prior to any new use or change of use within the commercial districts and the industrial district, any person (applicant) proposing such a new use or change of use shall notify the Village in writing describing the proposed use. The Village shall determine if the proposed use is a "permitted use", a "conditional use", or a "prohibited use". The Village shall issue a written determination to the applicant whether such proposed or intended use is a "permitted use", a "conditional use", or a "prohibited use". There shall be no fee charged for this review of the proposed use. This determination is solely for the purposes of categorizing the proposed use within the zoning district and does not constitute approval of said use and does not constitute a waiver of any other applicable rules or regulations concerning said use. The applicant is fully responsible for complying with all federal, state and local laws and regulations. This determination is appealable to the Zoning Board of Appeals by filing a written appeal with the Village within 30 days of the issuance of the determination by the village.

Sec. 13-1-5. Definitions.

The following words, terms and phrases, when used in this title, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

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Accessory building means any building other than, and not attached to, the principal building on a lot. Any structure attached to the principal building shall be deemed part of the principal building and shall not be an accessory building. Any accessory building shall not be used as a dwelling or residence.

Attached dwelling means any building or structure, or combination of attached buildings or structures, intended for occupancy or occupied by two or more families, regardless of whether it is held entirely in common ownership or separate ownership of parts thereof. Each portion intended for occupancy or occupied by one family is a dwelling unit.

Building height means the vertical distance between the highest point of the building and the greater of the highest point:

- (1) Of the street grade in front of the lot; or
- (2) At the front yard setback line of the finished elevation of the lot.

Conditional use means a use of land, water, or building which is allowable only after the issuance of a special use permit by the Village under conditions set forth in this title.

Corner lot means a lot abutting intersecting streets at their intersection. The corner lot setback measured from the lot line shall be 25 feet on all street sides. Corner lots for residential use shall have extra width to permit full setback from fronting streets or otherwise meet requirements of applicable zoning regulations.

Family means an individual, or two or more people, related by blood, marriage, or adoption, and includes a group of not more than two people who need not be related by blood or marriage living together in a dwelling unit.

Front yard means that part of a lot extending the full width of the lot between the street right-of-way line and the nearest part of the principal building and other structures. For corner lots having frontage on two or more streets, the front yard shall be required along a street right-of-way line.

Garage, commercial, means any building or premises, other than a residential garage, where motor vehicles are equipped, repaired, serviced, hired, sold, or stored.

Garage, residential, means any accessory building in a residential district for the storage of private motor vehicles. A residential garage shall not exceed 900 square feet of floor space and shall be of materials and architecture compatible with the principal structure.

Home occupation means a gainful occupation conducted within a residential dwelling or permitted accessory building, which is discreet in nature and does not alter the residential character of the surrounding area. Examples of typical home occupations include, but are not limited to; accountant, attorney, barber, beautician, caterer, computer programmer, counselor, groomer, photographer, seamstress, tax preparer, tutor, and woodworker. The occupation may be conducted only by the immediate family members living there, provided the occupation is clearly incidental and secondary to the property's primary function as a place of dwelling, and provided no article is offered for sale on the premises except those produced by such occupation.

Lot means a parcel of land described in a recorded plat, certified survey map, or deed of conveyance having frontage on a public street, or other officially approved means of access, occupied, or intended to be occupied, by a principal structure or use, and sufficient in size to meet the lot width, lot frontage, lot area, and other provisions of this Code as pertaining to the district where such lot is located.

Manufactured home. As defined in Wisc. Stat. 101.92(2).

Mobile home. As defined in Wisc. Stat. 101.92(10).

Multiple-family residence means any attached dwelling or any combination of separate buildings or structures on one lot intended for occupancy, or occupied by three or more families, and without any nonresidential use other than a home occupation.

Nonconforming building means a building or other structure lawfully used or occupied at the time of original adoption of this title, or at the time of any amendments to this chapter, which does not conform to the current regulations of this title or amendments to this title.

Nonconforming lot means a lot which does not conform to the current regulations of this title, or any amendments to this title. Any two or more adjoining lots held in common ownership may not be separately conveyed or subdivided in any

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manner that would create a nonconforming lot or create a lot more nonconforming than the original adjoining lots considered as a whole.

Nonconforming use means any premises lawfully used which involves a nonconforming lot or building, or which is used or occupied in a manner that does not conform to the current regulations of this title or any amendments to this title.

One-family residence means any building or structure intended for or occupied by not more than one family, and without any non-residential use other than a home occupation.

Principal building means the buildings or other structures on a lot, in or about which is focused the primary use of the lot, generally being the largest buildings or structures thereon. Other buildings or structures detached therefrom and used in a manner incidental or supplemental to the primary use are accessory buildings. In the R-1, R-1A, and R-2 districts, the building used for residential occupancy shall be the principal building. In the R3 districts, there may be more than one principal building which shall be the buildings used for residential occupancy. In the commercial and industrial districts there may be more than one principal building which shall be the buildings in or about which is focused the primary use of the lot.

Rear yard means that part of a lot, except a corner lot, extending the full width of the lot between the rear lot line and the nearest part of the principal building and other structures. On corner lots, all yards opposite the sides of the lot abutting a fronting street shall be considered a side yard.

Reversed corner lot means a corner lot, the rear of which abuts the side of another lot.

Setback means the minimum required distance, measured horizontally, between a lot line and the nearest part or the walls of buildings and other structures, excluding steps, decks, fire escapes, eaves, and other ornamental features, provided, such features shall project not more than five feet from a principal building, nor more than two feet from an accessory building into the required setbacks.

Side yard means that part of a lot between each side lot line and the nearest part of the principal building and other structures.

Structure means anything constructed, erected, and framed of component parts, and which is fastened, anchored or rests on a permanent foundation or on the ground for any occupancy or use whatsoever, excluding fencing.

Two-family residence means any building or structure intended for occupancy or occupied by two families, without any nonresidential use other than a home occupation.

Sec. 13-1-6. Impact fees.

(a) *Purpose and intent.* When underdeveloped land is developed for residential or other purposes, it often creates a need for additional transportation, water, sewage and stormwater facilities as well as parks and recreational facilities, public libraries, and other public facilities. Without the generation of new revenue sources, municipalities often must choose between the foregoing needed public facilities or imposing higher property taxes. The imposition of impact fees has become an increasingly important source of local revenue to pay for public facilities. The State Legislature has adopted an impact fee law which helps communities raise funds to pay for new development and maintain the current level of services. The 1993 Wisconsin Act 305 created Wis. Stats. § 66.55, which allows a municipality to enact an ordinance to impose impact fees on certain developers in an effort for new development to pay its fair share of municipal capital costs. Pursuant to the authority granted to the village in Wis. Stats. § 66.55, the Village Board hereby enacts this section to enable it to impose impact fees on developers to pay for the capital costs that are necessary to accommodate land development and to maintain current levels of service to those developing areas of the village.

(b) *Public facilities needs assessment.* In accordance with Wis. Stats. § 66.0617(4), the village has and will prepare or obtain needs assessment(s) of the public facilities for which it is anticipated that impact fees may be imposed. A copy of all the needs assessments is to be on file and available for public inspection and copying in the Village offices.

(c) *Definitions.* The definitions set forth in Wis. Stats. § 66.0617(1), and any amendments thereto, are hereby incorporated and made a part of this section as if fully set forth herein.

(d) *Imposition.* An impact fee will be imposed by the Village Board upon any person or entity seeking to create a land development or to construct within the village in accordance with this section and Wis. Stats. § 66.0617.

(e) *Standards.* Impact fees imposed under this section:

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- (1) Shall bear a rational relationship to the need for new, expanded or improved public facilities that are required to serve land development.
 - (2) May not exceed the proportionate share of the capital costs that are required to serve land development as compared to existing land uses within the village.
 - (3) Shall be based upon actual capital costs or reasonable estimates of capital costs for new, expanded or improved public facilities.
 - (4) Shall be reduced to compensate for other capital costs imposed by the village with respect to land development to provide or pay for public facilities including special assessments, special charges, and land dedications under Wis. Stats. Ch. 235, or any other items of value.
 - (5) Shall be reduced to compensate for monies received from the federal or state government specifically to provide or pay for the public facilities for which the impact fees are imposed.
- (f) *Collection.* Impact fees shall be collected as follows:
- (1) Impact fees will be collected by the Village at the time a building permit is issued.
 - (2) Impact fees not previously collected on vacant land will be collected at the time a building permit is issued. Impact fees will also be collected when a building permit is issued on the conversion of existing residential units which adds additional units.
 - (3) Developers may petition to have the impact fee converted into an impact special assessment to be paid over a three-year period. The calculated amount of the impact special assessment may not exceed 50 percent of the fair market value of the property to be developed plus any related bond issuance costs which include finance-related expenses, discount expense and capitalized interest. The fair market value is to be determined by an independent appraiser who is selected by the Village after the developer deposits sufficient funds with the Village to pay for the appraisal. Any impact fee amount more than this 50-percent amount will be due and payable when the building permit is issued.
 - (4) Impact special assessments shall be levied annually, in equal installments, against the property by individual lot of record.
 - (5) Upon closing the sale of any lot, the outstanding special assessment balance shall be paid to the Village.
 - (6) All special assessments shall conform to Village special assessment policy.
 - (7) Developers of properties which have both deferred assessments and impact fees will be allowed to convert both amounts into an impact special assessment to be paid over a five-year period. All other provisions specified in the preceding subsections apply.
 - (8) Owners of properties which are developed for the sole use of nonprofit organizations and are not intended for resale to other parties may petition the Village Board to be allowed to convert these fees into an impact special assessment to be paid over a ten-year period. Upon any future sale or change in the use of the property, the outstanding balance shall be paid to the Village. All other provisions specified in the preceding subsections apply.
 - (9) The provisions of this section shall be incorporated into a developer's agreement, and it shall be mutually agreed that all waivers required for special assessments shall be signed by the developer.
- (g) *Impact fee schedule.* The Village shall create, and from time to time amend, a schedule of minimum impact fees which are established on a per-acre or residential equivalent units (REUs) basis. If development results in more REUs than the minimum schedule, such additional REUs shall be paid at the time the building permit is granted.
- (h) *Land dedication for parkland.* The Village Board may allow the paying of a Park Impact fee In lieu of parkland dedication as required in the Village subdivision ordinance.
- (i) *Interest-bearing account.* The Village shall establish and maintain a segregated interest-bearing account for revenues collected from impact fees. Such funds shall be accounted for separately from other funds of the Village. Impact fee revenues and interest earned on impact fee revenues may be expended only for capital costs for which the impact fees were imposed.
- (j) *Refund of fees.* Any impact fees that are imposed and collected pursuant to the provisions of this section and not expended or committed for expenditure by the end of the calendar quarter immediately following ten years from the date the impact fee was paid shall be refunded to the current owner of the property with respect to which the impact fees were imposed, except that impact fees for water supply, storage and treatment may be held for a period of 20 years.
- (k) *Fee review.* The fee schedule will be reviewed by the Village Board at least once each year and modified, if necessary, as a result of changing facility needs, inflation, revised cost estimates, capital improvements, changes in other funding sources applicable to the public facility projects and other relevant factors and in accordance with the standards for impact fees set forth in Wis. Stats. § 66.0617.
- (l) *Appeal procedure.*

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- (1) A person or entity upon whom an impact fee is imposed may, within 15 days of the imposition of the impact fee, contest the amount, collection or use of the impact fee by filing a written request with the Village specifying the basis upon which an appeal is taken.
- (2) Within 30 days of receiving a request for review by a person or entity, the Village Board shall either place the matter on its next regular scheduled meeting or schedule a special meeting of the board of trustees to hear the appeal of the developer.

CHAPTER 2: DISTRICT REGULATIONS

Sec. 13-2-1. One-family and two-family residence districts (R-1, R-1A, R-2).

(a) *Permitted uses.* The R-1, R-1A, and R-2 districts are intended to provide a quiet, pleasant, and relatively spacious living area protected from the intrusion of incompatible land uses. The following uses of land are permitted in the R1, R-1A, and R-2 districts:

- (1) One single-family dwelling per lot, one residential garage, and one accessory building. Manufactured homes are not permitted in R-1 or R-1A districts.
- (2) One two-family dwelling per lot, except manufactured homes, in the R-2 district. One residential garage and one accessory building are permitted per family.
- (3) Municipal parks, playgrounds, recreational fields, and equipment, and related buildings and facilities.
- (4) Uses customarily incident to any of the uses set forth in this subsection (a), provided that no such use generates unreasonable levels of noise, light, smoke, traffic, or air or water pollution that would create a public or private nuisance.
- (5) Day care providers certified or licensed by the state, and serving not more than eight enrollees.
- (6) Adult family homes that serve one or two residents.

(b) *Conditional uses.*

- (1) Home occupations, including day care providers certified or licensed by the state with a licensed capacity of more than eight (children).
- (2) Foster homes, as defined in Wis. Stats. § 48.02, consistent with state licensing requirements.
- (3) Adult family homes, as defined in Wis. Stats. § 50.01(1), consistent with state licensing requirements.
- (4) Churches, public or private schools, libraries, cemeteries, and related buildings and facilities.
- (5) Municipal buildings and facilities.
- (6) Public or nonprofit recreational, civic or community center buildings and facilities.
- (7) Public or private utilities and similar services, including buildings and related structures and facilities thereof, including those furnishing water, sewer, electric, gas, telephone, television or radio services; provided, however, that any action by the Village Board allowing such facilities within public street rights-of-way or other public properties shall constitute the granting of a conditional use permit therefor, notwithstanding the provisions of Chapter 3 of this chapter.
- (8) Uses customarily incident to any of the uses set forth in subsection (b) of this section, provided that no such use generates unreasonable levels of noise, light, smoke, traffic, or air or water pollution that would create a public or private nuisance.

(c) *Height and area requirements.*

Maximum building height	
Principal buildings	35 feet
Accessory buildings	18 feet
Minimum side yard setback	
Principal buildings	10 feet minimum each side 25 feet combined both sides
Accessory buildings located behind principal building	5 feet
Minimum front yard setback	25 feet
Minimum rear yard setback	
Principal building	25 feet
Accessory building	5 feet
Minimum lot area	
R-1 residence	11,000 square feet
R-1A residence	15,000 square feet
R-2 residence	15,000 square feet
Other permitted uses	5,000 square feet
Minimum lot width	
Street right-of-way line	50 feet
R-1 residence	90 feet
R-1A residence	90 feet

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R-2 residence	100 feet
Other permitted uses	75 feet
Minimum floor area	
R-1 residence	1,000 square feet
R-1A residence	
One-story	1,500 square feet
Two-story	1,000 square feet on ground level floor
R-2 residence	800 square feet per family
Maximum floor area for detached residential garage	900 square feet
Parking	
Off-street residential	2 spaces per family
Off-street for places of public gathering	1 space per 5 person designed occupancy
Off-street for other uses	1 space per 200 square feet of floor area

Sec. 13-2-2. Multiple-family residence districts (R-3).

(a) *Permitted uses.* The R-3 districts are intended to provide a living area that is pleasant but with higher densities than the R-1, R-1A, and R-2 districts. Any use permitted in the R-1, R-1A, and R-2 districts are permitted in the R -3 districts.

(b) *Conditional uses.*

- (1) Multiple-family dwellings.
- (2) Charitable institutions, nursing homes, assisted living and private nonprofit clubs and lodges.
- (3) Community-based residential facilities, as defined in Wis. Stat. § 50.01(1g), consistent with state licensing requirements.
- (4) Uses conditionally permitted in the R-1, R-1A, and R-2 districts as set forth in section 13-2-1(b).

(c) *Height and area requirements.* All one-family and two-family residence uses shall be subject to the provisions of section 13-2-1. All other uses shall comply with the following:

Maximum building height	45 feet
Minimum side yard setback	
Principal buildings	30 feet minimum on each side
Accessory buildings	20 feet minimum on each side
Parking area	15 feet minimum on each side
Minimum front yard setback	
Principal buildings	25 feet
Accessory buildings	25 feet
Parking area	20 feet
Minimum rear yard setback	
Principal buildings	25 feet
Accessory buildings	5 feet
Parking area	10 feet
Minimum lot area	
Multiple-family buildings	4,000 square feet per dwelling unit
Other conditional uses	10,000 square feet
Minimum lot width	
Street right-of-way line	50 feet
Front yard setback line	
Multiple-family buildings	120 feet
Other conditional uses	75 feet
Minimum floor area per dwelling unit	800 square feet
Parking (see section 13-4-9)	
Off-street residential	2 spaces per dwelling unit
Off-street for places of public gathering	1 space per 5 person designed occupancy
Off-street for other uses	1 space per 200 square feet of floor area or part thereof

(d) *Maximum developed area.* Buildings, driveways, and parking areas of premises used for multiple-family shall not collectively cover more than 50 percent of the land area in the R-3 district. Sidewalks, uncovered recreational areas, and uncovered decks and patios shall not be considered as covered areas.

Sec. 13-2-3. Manufactured home districts (MH-1).

(a) *Purpose.* The MH-1 districts are intended solely for residential use of manufactured and mobile homes.

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(b) *Conditional uses.*

- (1) Manufactured homes and mobile homes provided the location thereof is approved and a permit granted in the manner provided in Chapter 3 of this title for approval of conditional uses as a part of a planned mobile home development. A planned mobile home development is intended to be exclusively for residential use of mobile homes and shall comply with the following restrictions:
 - a. *Use.* Only the following uses and buildings shall be permitted in a planned mobile home development:
 1. One-family mobile homes.
 2. One office and dwelling for the manager of the mobile home development.
 3. Shared use structures, such as recreational facilities, laundry facilities, storm shelters and similar services for the residents of the mobile home development.
 - b. *Height.* No mobile home or building shall exceed one story or 15 feet in height.
 - c. *Yards.* Every mobile home development shall have minimum front, side, and rear yard setbacks of 50 feet.
 - d. *Spacing of units.* Mobile homes shall not be placed closer than 30 feet apart or within 30 feet of any private roadway serving such units.
 - e. *Area.* Each mobile home development shall have a minimum area of one acre. Each space for a mobile home shall have a minimum area of 5,500 square feet and a minimum width of 40 feet.
 - f. *Age.* Manufactured homes may not have been constructed longer than 15 years prior to the date of installation.
 - g. *Floor area.* Each mobile home shall have not less than 600 square feet of floor area.
 - h. *Parking.* Each mobile home space shall have two parking spaces exclusive of any private roadway serving the unit.
 - i. *Paving.* Private roadways and parking spaces shall be paved.
 - j. *Anchors.* Each mobile home shall be securely attached to the ground by a system of anchors capable of preventing rollover or displacement of the mobile home in winds of 100 miles per hour.
 - k. *Skirting.* Each mobile home shall be skirted on all sides with solid material between the mobile home and the ground.
- (2) Engineering plans and specifications
 - a. Application shall include engineering plans and specifications of the proposed park showing but not limited to:
 1. The number, location, and size of all mobile home lots and location of common areas.
 2. The location and width of roadways, parking areas, and walkways.
 3. Sewage collection and disposal, water distribution and supply, storm water drainage, refuse storage, lighting, and any other utilities.
 4. Landscape plans.

Sec. 13-2-4. Business/Commercial districts (B-1, B-2, and B-3).

(a) *Uses.* The B-1, B-2 and B-3 commercial districts are provided for the general business and commercial needs of the Village. Prior to beginning any new use, all proposed new uses or changes of use are subject to a review by the Village. Within the confines of the permitted and conditional uses listed below any business, commercial, or governmental use may be permitted in commercial districts, except those uses that are unreasonably dangerous or generate noise, light, smoke, traffic, air or water pollution which would create a public or private nuisance. All industrial uses are prohibited. Any use permitted in the RM-2 medium density multiple-family residence district may also be permitted as a conditional use in commercial districts but shall comply with the provisions of section 13-2-2 where such provisions are more restrictive than the provisions of this section. No truck terminal or other activity primarily associated with truck transportation or storing, servicing, or repairing of commercial trucks, truck tractors, or semitrailers shall be permitted; however, this shall not prohibit truck transportation of materials or services incidental to and necessary for any conditionally permitted uses.

(b) *Central business district (B-1).* The B-1 district is intended to provide zoning for small businesses established in the downtown of the Village.

Permitted uses are as follows:

- (1) Taverns and bars.
- (2) Restaurants.
- (3) Barber shops and beauty salons.
- (4) Photography studio.
- (5) Art studio.
- (6) Interior design store.
- (7) Tanning salons.
- (8) Offices not exceeding 1,500 square feet.
- (9) Retail shops not exceeding 1,500 square feet.

Conditional uses:

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- (1) Other commercial uses similar in nature to the permitted uses.
- (2) Small engine repair shops.
- (3) All new construction, except any exterior additions where the cost is less than 50 percent of the current assessed value of the existing structure.
- (4) Exterior remodeling where the cost is greater than 25 percent of the current assessed value of the existing structure being altered or replaced.

(c) *Limited commercial district (B-2)*. The B-2 district is intended to accommodate those office and/or professional uses which are specifically compatible with one another and often located separate from general retail, variety, and convenience businesses. It is intended that the uses permitted in this district shall be located and designed to be in harmony with existing and future residential uses adjacent to or within 1,000 feet of such district.

Permitted uses are as follows:

- (1) Professional or public service offices.
- (2) Medical clinics.
- (3) Veterinary clinics but not including boarding or kenneling other than for medical procedures.
- (4) Retail shops not exceeding 1,500 square feet.
- (5) Government buildings.

Conditional uses:

- (1) Any B-1 use.
- (2) Other commercial uses similar in nature to the permitted uses.
- (3) Small engine repair shops.
- (4) All new construction, except any exterior additions where the cost is less than 50 percent of the current assessed value of the existing structure.
- (5) Exterior remodeling where the cost is greater than 25 percent of the current assessed value of the existing structure being altered or replaced.
- (6) Any accessory building or use is limited to the following:
 - a. Residential quarters for the owner, proprietor, employee, commercial tenant or caretaker located in the same building as the business.
 - b. Garages for storage of vehicles used in conjunction with the operation of the business.
 - c. Off street parking and loading areas.
 - d. Any other structure or use normally accessory to the above uses.

(d) *General commercial district (B-3)*. The B-3 district is intended to provide for the orderly and attractive grouping at appropriate locations along principal traffic routes of those business and customer service which are logically related to and dependent upon vehicular traffic or which are specifically designed to serve the needs of such traffic.

Permitted uses are as follows:

- (1) Retail stores and shops not exceeding 4,000 square feet of primary floor space.
- (2) Financial institutions and banks.
- (3) Funeral homes.
- (4) All uses listed as permitted uses in B-1 and B-2 districts not exceeding 4,000 square feet.

Conditional uses:

- (1) Service stations and convenience stores.
- (2) Car washes.
- (3) Fitness centers and other commercial recreation facilities such as bowling alleys, golf driving ranges, archery ranges, pool halls, indoor or outdoor volleyball courts, and other similar recreational facilities.
- (4) Other commercial uses are similar in nature to the permitted uses.
- (5) Motorized vehicle sales and service.
- (6) Small engine repair.
- (7) All new construction, except any exterior additions where the cost is less than 50 percent of the current assessed value of the existing structure.
- (8) Exterior remodeling where the cost is greater than 25 percent of the current assessed value of the existing structure being altered or replaced.
- (9) Self-storage facilities as defined in Wis. Stats. § 704.90 provided that all units are enclosed and contained within a single-story building(s) for rental to retail customers, no outdoor storage or storage in temporary, movable or containerized units are allowed, and all new structures meet dimensional setback requirements without variances and such other conditions as may be provided for under Chapter 3.

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(e) *Height and area requirements.*

Building height	
Maximum height without restriction	50 feet
Over 50 feet	1 foot setback from front and back per 2 feet of rise
Minimum side yard setback	
B-1 fireproof construction	0 feet
Non-fireproof	6 feet
B-2	20 feet
B-3	15 feet
Minimum front yard setback	
B-1	0 feet
B-2	40 feet
B-3	30 feet
Minimum rear yard setback	
B-1	25 feet
B-2	25 feet
B-3	25 feet
Minimum lot area	
B-1	5,000 square feet
B-2/B-3	12,000 square feet
Minimum lot width	
B-1	55 feet
B-2/B-3	100 feet

(f) *Off-street parking.* (See section 13-4-9)

- (1) *Residential.* Two spaces per dwelling unit.
- (2) *Places of public gathering.* One space per five people of designed occupancy.
- (3) *Commercial uses.* One space per 200 square feet of floor area or part thereof.
- (4) *Conditional uses.* Notwithstanding the provisions of this subsection, different off-street parking requirements may be required for uses, pursuant to any conditional use permit issued therefor.

Parking for commercial uses or places of public gathering may be provided on-site or on an adjacent lot.

(g) *Truck loading area.* Sufficient space so that no driveways, streets, or alleys need to be blocked.

(h) *Minimum setback for aboveground flammable liquid pumping or storage facilities.* Thirty feet from all lot lines and existing or proposed street lines.

Sec. 13-2-5. Industrial district (I-1).

(a) *Uses.* The I-1, industrial district is intended to provide for industrial, manufacturing, commercial and municipal uses in areas separated from other sections of the Village. Prior to beginning any new use, all proposed new uses or changes of use are subject to a review by the Village. Within the confines of the permitted and conditional uses listed below, industrial uses may be allowed, except those that are unreasonably dangerous or generate noise, light, smoke, traffic, air or water pollution which would create a public or private nuisance. All residential uses are prohibited. No truck terminal or other use or activity primarily engaged in truck transportation or in sending, receiving, storing, repairing, or servicing of commercial trucks, truck tractors, or truck semitrailers shall be permitted; however, this shall not prohibit truck transportation of materials or services to or from any permitted or conditionally permitted use.

Permitted uses are as follows:

- (1) Storage facilities, partitioned or unpartitioned, for rental to wholesale or retail customers.
- (2) Machine shops.
- (3) Welding shops.
- (4) Cabinet and woodworking shops.
- (5) Offices and display areas.
- (6) Printing and publishing houses and related activities.
- (7) Packing and/or packaging operations.
- (8) Lumber and building supplies and services.
- (9) Computer data processing and communication services.
- (10) Airports and airport-related businesses.

Conditional uses:

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- (1) Communication structures/towers, utilities and public services.
 - (2) Automobile/motorcycle/small engine repair shops.
 - (3) Animal based businesses - kennels, hospitals or laboratories.
 - (4) Salvage shops.
 - (5) Manufacturing and assembly operations.
 - (6) Laboratories and research facilities.
 - (7) Food processing.
 - (8) Energy development and power transmission manufacturing.
 - (9) General warehousing in storage buildings or yards for commercial or industrial goods and materials. Such goods or materials must be stored inside a building or within an open area attractively and effectively visually screened from public streets, roads, or highways and adjacent nonindustrial uses. Limited on-site retail sales may be permitted, but warehousing for the primary purpose of direct retail sales to customers on site is not permitted.
 - (10) Storage tanks of hazardous substances, chemicals, and flammable liquids used in the manufacturing process. Extremely hazardous substances, as defined in Section 302 of U.S. EPA Emergency Planning and Community Right to Know Act (EPCRA), are not permitted.
 - (11) Fuel storage tanks for use by the business in its operations, but not for wholesale or retail sales.
 - (12) Other industrial uses similar in nature to the permitted industrial uses, and other commercial uses (as defined in section 13-2-4) which are compatible with the permitted industrial uses and with existing uses within 500 feet of the proposed use.
 - (13) All new construction, except any exterior additions where the cost is less than 50 percent of the current assessed value of the existing structure.
 - (14) Exterior remodeling where the cost is greater than 25 percent of the current assessed value of the existing structure being altered or replaced.
- (b) *Height and area requirements.*
- (1) Maximum building height, 50 feet.
 - (2) Minimum side yard setback, 20 feet.
 - (3) Minimum front yard setback, 25 feet.
 - (4) Minimum rear yard setback, 35 feet – up to two stores. Additional 5 feet per additional story.
 - (5) Minimum lot width, 100 feet.
- (c) *Parking.* One space per employee. (See section 13-4-9)
- (d) *Truck unloading area.* Sufficient space so that no streets or alleys need to be blocked.
- (e) *Minimum setback for aboveground flammable liquid pumping or storage facilities.* Thirty feet from all lot lines and existing or proposed street lines.
- (f) *Maximum developed area.* Buildings, driveways, and parking areas shall not collectively cover more than 75 percent of the lot area.

Sec. 13-2-6. Planned development district (P-1).

(a) *Statement of purpose.* All buildings and uses in the P-1, planned development district are conditional uses under Chapter 3 of this chapter, and subject to fees and escrow deposits set forth in the Fine and Fee Schedule. The P-1 district is established to provide a regulatory framework designed to encourage and promote environmental design in the Village by allowing for greater freedom, imagination, and flexibility in the development of land while assuring substantial compliance to the basic intent of the zoning and subdivision ordinances and the general plan for community development. To this intent it allows diversification and variation in uses, structures, open spaces, and in developments conceived and implemented as comprehensive and cohesive unified projects. It is further intended to encourage more rational and economic development with relationships with public services and to encourage and facilitate preservation of open land.

- (1) *Boundaries; zoning maps.* The boundaries of all P-1 districts shall be shown on the official zoning map of the Village, and subsequent amendments to such map.
- (2) *Minimum size.* The minimum size for a P-1 district shall be four acres of land unless the physical characteristics of the land or other factors make it necessary for the planned development to be less than four acres.
- (3) *Single control; ownership.* Each tract shall be a development of land under single control. No authorization or permit shall be granted for such development unless the applicant has acquired actual ownership of all the property comprising such tracts. An application for authorization or permit may be submitted by an applicant who has executed a binding purchase agreement for the property. The term "single control" shall include ownership by an individual, corporation, partnership, joint venture, association, trust, or other legal entity.

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(b) *Permitted uses.* Any use permitted by right or as a conditional use in any of the other zoning districts may be permitted in the P-1 district, but only in conformity with a specific implementation plan pursuant to the procedural and regulatory provisions as set forth in this section.

(c) *Lot area, lot width, height, floor area, and setback requirements.* There shall be no predetermined specific lot area, lot width, height, floor area, and setback requirements in the P-1 district, but such requirements as are made a part of an approved specific implementation plan.

(d) *Signs.* Signs may be permitted in the P-1 district in accordance with section 13-4-2 and such other requirements as are made a part of the approved specific implementation plan.

(e) *Off-street parking.* Off-street parking facilities in the P-1 district shall be provided in accordance with the approved specific implementation plan.

(f) *Rezoning procedure.* The procedure for rezoning to a P-1 district shall be as required for any other zoning district change under this title, except that in addition thereto, the rezoning may only be considered in conjunction with a general development plan. Public hearings and action on the petition shall follow the procedures established in Chapter 3 of this chapter. The applicant shall pay to the Village escrow deposits in accordance with Fine and Fee Schedule, and such section shall apply throughout the planned development application process.

(g) *General development plan.* The applicant for a P-1 district shall submit a general development plan to the Plan Commission signed by owners of all property within the proposed P-1 district. The general development plan shall include the following information:

- (1) A statement describing the general character of the intended P-1 district, including a rationale and economic development plan consistent with existing and future public services which encourage and facilitate preservation of open land.
- (2) An accurate map of the project area, including its relationship to surrounding properties and existing topography, key features, and proposed building locations, height, and bulk.
- (3) A plan of the proposed project showing sufficient details to make possible the evaluation of the criteria for approval as set forth in subsection (h) of this section.
- (4) The pattern of proposed land use, including shape, size, and arrangement of proposed use area, density, and environmental character, and relationship to adjoining parcels of land within 600 feet of the district's boundaries.
- (5) The pattern of existing and proposed streets, driveways, walkways, and parking facilities.
- (6) The location, size, and character of recreational and open space areas reserved or dedicated for public use, such as schools, parks, green spaces, etc.
- (7) The plans for utility services and surface water drainage.
- (8) Appropriate statistical data on the size of the development, ratio of various land uses, percentages of multifamily units by number of bedrooms, expected staging of development, and any other plans or data pertinent to evaluation by the Village under the criteria of subsection (h) of this section.
- (9) A general outline of the intended organizational structure related to property owners' associations, deed restrictions, and provision for common private services.
- (10) Analysis of economic impact upon the Village and surrounding community.

(h) *Criteria for approval.* As a basis for determining the acceptability of a P-1 district application, the following criteria shall be applied to the general development plan with specific consideration as to whether it is consistent with the spirit and intent of this section, has been prepared with competent professional advice and guidance, and produces significant benefits in terms of environmental design.

- (1) *Character and intensity of land use.* The uses proposed and their intensity and arrangement on the site shall be of a visual and operational character which:
 - a. Are compatible with the physical nature of the site with particular concern for preservation of natural features, tree growth, and open spaces.
 - b. Will produce an attractive environment of sustained aesthetic and ecological desirability, economic stability, and functional practicality compatible with the general development plans for the area.
 - c. Will not unduly affect the anticipated provision for school or other village services.
 - d. Will not create a traffic or parking demand incompatible with the existing or proposed facilities to serve it.
- (2) *Economic feasibility and impact.* The applicant shall provide satisfactory evidence of economic feasibility, availability of adequate financing, and show that the planned development will not adversely affect the economic prosperity of the Village or the values of surrounding properties.

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- (3) *Engineering design standards.* The width of street rights-of-way, width and location of street or other paving, outdoor lighting, location of sewer and water lines, provision for surface water drainage, or other environmental engineering considerations shall be based upon appropriate standards necessary to implement the specific function in the specific location. However, in no case shall standards be less than those necessary to assure public safety as determined by the Village.
 - (4) *Preservation and maintenance of open space.* Adequate provision shall be made for the permanent preservation and maintenance of common open space either as the Village may require by private reservation or dedication to the public in accordance with Wis. Stats. § 86.05.
 - a. In the case of private reservation, the open area to be reserved shall be protected against building development by conveying to the Village open space easements or recorded covenants restricting such open areas against any future building or use except as is consistent with that of providing open space for the aesthetic and recreational benefit of the district and as consistent with the requirements of this chapter.
 - b. The care and maintenance of such open space reservations shall be assured by establishment of appropriate management organization for the district. The manner of assuring maintenance and assessing such cost to individual properties shall be included in any contractual agreement with the Village and shall be included in the title to each property.
 - (5) *Implementation schedule.* The applicant shall submit a reasonable schedule for implementation of the development plan satisfactorily to the Village Board, including suitable provisions for assurance that each phase will be brought to completion in a manner which will not result in any adverse effect upon the community because of termination at that point.
- (i) *Effect of rezoning.* Approval of the rezoning and related general development plan shall establish the basic type of use for the area in conformity with the plan as approved, which shall be an integral component of the district regulations. The general development plan shall automatically be conditioned upon approval of a specific implementation plan and shall not make permissible any of the uses as proposed until a specific implementation plan is submitted and approved for all or a portion of the general development plan.
- (j) *Specific implementation plan.*
- (1) *Submitted.* A specific and detailed plan for implementation of all or a part of a proposed P-1 district shall be submitted to the Plan Commission within 12 months after approval of the general development plan, unless the Plan Commission grants an extension thereof.
 - (2) *Failure to submit plan.* If a specific implementation plan which the Village Board determines to be a reasonable phase of the total plan has not been submitted within the period set forth in subsection (j)(1) of this section, a petition may be filed with the Village by any village official or other person to rezone the property from P-1 district back to the previous zoning or such other zoning as may be appropriate.
 - (3) *Required.* The specific implementation plan shall be submitted to the Plan Commission and shall include the following detailed construction and engineering plans and related documents and schedules:
 - a. An accurate map of the area covered by the specific implementation plan, including the relationship with the total general development plan.
 - b. The pattern of streets, driveways, walkways, and parking facilities.
 - c. Detailed lot layout and preliminary plat or certified survey map for the subdivision under title 14 of this Code, if required.
 - d. Arrangement, architecture, height, and area of buildings with particular attention to their influence on adjoining parcels of land.
 - e. Water and sanitary sewer systems.
 - f. Grading plan, erosion control and surface water drainage and treatment systems.
 - g. The location and treatment of open space areas and recreational or other special amenities.
 - h. The location and description of any areas to be dedicated to the public.
 - i. General landscape treatment.
 - j. Proof of financing capability for the final approved project.
 - k. A development schedule indicating:
 - 1. Approximate date when construction of project will begin.
 - 2. Stages in which the project will be built and the approximate date when construction of each stage will begin.
 - 3. Anticipated rate of development.
 - 4. Approximate date when the development of each of the stages will be completed.
 - 5. Area and location of private and public open space that will be provided at each stage.
 - l. Agreements, bylaws, provisions, or covenants which govern the organizational structure, use, maintenance, and continued protection of the P-1 district, and any of its common services, private open space areas, or other facilities.
 - m. Any other plans, documents, or schedules requested by the Plan Commission or Village Board.

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- n. If the general development plan is to be implemented in phases, each phase shall have a specific implementation plan. Each specific implementation plan shall be submitted in accordance with this section and shall be in conformity with the general development plan.

(k) Approval of the specific implementation plan.

- (1) If the specific implementation plan for all or part of the general development plan submitted for final approval is in substantial compliance with the approved general development plan, the Plan Commission and Village Board may give final approval of the specific implementation plan or any part thereof without further public hearing. Within 45 days after submission of a specific implementation plan in substantial compliance with the approved general development plan, the Plan Commission shall issue its recommendation thereon and within 45 days thereafter, the Village Board shall either grant or deny the final approval of such specific implementation plan.
- (2) If the specific implementation plan as submitted is not in substantial compliance with the general development plan, the Plan Commission shall notify the applicant of the insufficiency within 60 days of the date of submission of such specific implementation plan. The applicant may treat such notification as denial of final approval or amend the specific implementation plan so that it does substantially comply with the general development plan. As an alternative to amending the specific implementation plan, the applicant may file a written request with the Village that the Plan Commission and Village Board hold a joint public hearing on the specific implementation plan as submitted for final approval. Any such hearing shall be held within 60 days after receipt of request for such a hearing. Within 45 days after such hearing, the Plan Commission shall issue its recommendation thereon and within 45 days thereafter, the Village Board shall either grant or deny final approval of the specific implementation plan.
- (3) If the Plan Commission or Village Board fail to act within the times prescribed, either by grant or denial of the final approval of the specific implementation plan, such plan shall be deemed to be denied unless the applicant has agreed to extend the time limits.
- (4) If a specific implementation plan is given final approval and thereafter the applicant abandons such plan or any section thereof, or if the applicant fails to commence work thereon within 18 months after final approval, or if substantial work on the project ceases for six months, such final approval shall terminate and be deemed null and void, unless such period is extended by the Village Board upon written application of the applicant.
- (5) Recording.
 - a. Within 10 days after final approval of a specific implementation plan and any required plat or certified survey map, the applicant shall record the following with the Dunn County Register of Deeds:
 - 1. The final plat or certified survey map, if any, and additional maps or plans the Village Board deems necessary to record to adequately describe the planned development to the public.
 - 2. Deeds, mortgages, and other conveyances to the Village and other public bodies.
 - 3. Documents establishing or amending covenants, deed restrictions, property owners' associations, and provisions for private open spaces and other common areas.
 - 4. Any other documents the Village Board deems necessary to adequately describe the planned development to the public.
 - b. All other commitments and contractual agreements with the Village offered or required regarding project value, character and other factors pertinent to assurance that the proposed development will be carried out basically as presented in its implementation plan shall be filed with the Village within 30 days. All such recordings and filings shall be accomplished prior to the issuance of any building or other permits.
- (6) Any proposed change, addition or deletion to an approved specific implementation plan shall first be submitted for approval to the Plan Commission and if, in the opinion of the Plan Commission, such change or addition constitutes a significant alteration, the procedure provided in subsection (k)(2) of this section shall be required for review thereof.

(n) *Annual review.* The Plan Commission shall review all unfinished P-1 districts within the Village at least once each year and shall report to the Village Board on the status of the development in each of the districts. If the Village Board finds that development has not occurred within a reasonable time after the original approval of the P-1 district, the Village Board may instruct the Plan Commission to initiate a rezoning procedure as set forth in subsection (j)(1) of this section for that portion of the P-1 district that has not been developed. In considering such rezoning, it shall not be necessary for the Village Board to find that the zoning of the P-1 district was in error. In the event of such zoning, variances which were allowed by specific implementation plans for each completed phase of the development will be allowed to remain.

(o) *Approval by other agencies.* The applicant for a P-1 district shall comply with all requirements of other regulatory agencies.

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Sec. 13-2-7. Conservancy district (C-1).

(a) *Permitted uses.* The conservancy district is intended to preserve the natural state of scenic areas in the Village and to prevent uncontrolled, uneconomical spread of development and to help discourage intensive development of marginal lands to prevent potential hazards to public and private property.

The following uses are permitted in the C-1 district:

- (1) Management of forestry, wildlife, and fish.
- (2) Harvesting wild crops, such as ferns, moss, berries, tree fruits, and tree seeds.
- (3) Parks and general recreational areas.
- (4) Uses similar and customarily incident to any of the uses this in this subsection (a).

(b) *Conditional uses.*

- (1) Sewage disposal plants, water storage and pumping facilities, golf courses, and seasonal public camping grounds.
- (2) Dams, power stations, transmission lines, and water storage facilities.
- (3) Parks, campgrounds, and public shooting ranges and their accessory structures.

Sec. 13-2-8 Agricultural district (A-1).

(a) *Purpose.* The A-1 Agricultural District is intended to provide for the continuation of general farming and related uses in those areas of the Village that are not yet committed to urban development. It is further intended for this district to protect lands contained therein from urban development until their orderly transition into urban-oriented districts is required.

(b) *Permitted uses.*

- (1) General farming, including agriculture, dairying, floriculture, forestry, grazing, hay, orchards, truck farming and viticulture. Farm buildings housing animals, barnyards, and feed lots are not located in a floodland and must be at least 100 feet from any navigable water or any boundary of a residential district.
- (2) Cemeteries.
- (3) One single-family dwelling consistent with the requirements of R-1 district.
- (4) Uses similar and customarily incident to any of the uses this in this subsection (a).

(b) *Conditional uses.*

- (1) Airports, airstrips, and landing fields provided that the site is not less than 20 acres.
- (2) Drive-in establishments selling fruits and vegetables.
- (3) Home occupations and professional offices.
- (4) Housing for farm laborers and seasonal or migratory farm workers.
- (5) Transmitting towers, receiving towers, relay and microwave towers without broadcast facilities or studios.
- (6) Utilities.
- (7) Veterinary clinics provided that no structure or animal enclosure must be located closer than 100 feet to a property boundary.

(c) *Restrictions.*

- (1) *Lot Area and Width.* The lot area requirements for the R-1 district will apply to all buildings for human habitation erected, moved or structurally altered. Existing residential structures and farm dwellings remaining after the consolidation of farms are provided with a lot area of not less than 40,000 square feet and a lot width of not less than 120 feet.
- (2) *Building Height.* No agricultural building may exceed 60 feet in height.

CHAPTER 3: CONDITIONAL USES

Sec. 13-3-1. Conditional uses.

Sections 13-3-1 through 13-3-12 apply to all conditional uses, in addition to any provisions found in any other ordinances. If an ordinance provision conflicts with sections in this chapter, the more specific provision will apply.

Sec. 13-3-2. Applications.

(a) *Conferences.* Applicants are encouraged to confer with Village officials and staff prior to, or soon after, submitting their applications to understand the information and steps that may be needed to act on such applications.

(b) *Form; fees.* Applications for conditional use permits shall be made on forms obtained from the Village. A signed copy of the application form and the additional materials specified in this section shall be submitted to the Village not less than 25 days prior to the Planning Commission meeting at which the application is to be considered, together with the application and escrow fees as specified in Fine and Fee Schedule. Application fees are non-refundable.

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(c) *Applications without construction.* Applications for conditional use permits which do not involve construction of a new structure or exterior addition to an existing structure shall fully describe the proposed use in sufficient detail to act upon the application. However, the Planning Commission or Village Board may waive any of the requirements that are not applicable and may require any additional information necessary to act upon the application.

(d) *Applications with construction.* Applications for conditional use permits which include construction of new structures or exterior additions to an existing structure require the following information. However, the Planning Commission or Village Board may waive any of the requirements that are not applicable or require any additional information necessary to act upon the application.

- (1) Two complete sets of plans and specifications, including a plat map, certified survey map, or other boundary survey prepared by a registered land surveyor, showing the actual dimensions of the lot to be built upon, and on which shall be shown an accurate dimensioned and scaled plot plan, including the location of all existing structures, pavements, buried and overhead utilities, adjoining streets, alleys, lot lines, and easements; the elevations of the street fronting on the lot, elevations of existing structures and pavements; existing direction of drainage; required setbacks; proposed structures and additions, pavements, parking and driveways, landscaping, and utilities; elevations of all proposed garage, main floor, and basements, pavements, drainage structures, and grades at the exterior of the structures.
- (2) Detailed building plans for existing or proposed structures to be constructed, remodeled, altered, modified in whole or part. Plans for buildings required to comply with the state building code shall bear a stamp of approval from the state department of commerce. Such plans and specifications shall be submitted in duplicate. One set of plans shall be returned after approval as provided in this section. The other set of plans shall remain on file in the office of the village clerk. All plans and specifications shall be signed by the designer.
- (3) Proposed conditions, limitations, and restrictions which the applicant requests or believes appropriate to fulfill the purposes of this chapter and minimize or avoid adverse impact upon neighbors or the public.
- (4) Any other information or materials which the applicant believes necessary or useful in evaluating the application.

(e) *Initial review.* Upon receipt of an application, the additional materials required, and the applicable fees, the Village shall transmit copies to the Zoning Administrator and other staff members having review responsibilities and shall briefly review such materials to determine whether any apparent insufficiencies exist.

(f) *Notice of apparent insufficiency.* The Village shall, within ten days of their receipt of an application, send written notice by regular mail to the address on the application, briefly describing any apparent insufficiencies which prevent or hinder determination of the proposal's compliance with applicable Village ordinances and regulations, or the proposal's impact on neighbors, the public, or the Village. However, failure of the Village to perform such an initial review or to send such notice of apparent insufficiency shall not prevent the Village from withholding action or denying the application by reason of any insufficiency or otherwise. It is the applicant's responsibility to furnish sufficient information for the Village to make a complete evaluation of the proposal.

Sec. 13-3-3. Professional fees and disbursements.

(a) Upon submission of an application for a conditional use permit that involves new construction or an addition to an existing building or other structure, the applicant shall deposit in escrow with the Village the amount specified for construction in the Fine and Fee Schedule. All other applications for conditional use permits shall require an escrow deposit in the amounts specified for non-construction in the Fine and Fee Schedule. If the determined sum is inadequate or excessive for anticipated expenses, the Village may increase or decrease the required deposit at any time. In addition, the Village may waive all or part of the required escrow deposit to the extent that a decision on the application will probably not require professional or related services. Should the Village determine that a greater escrow deposit is required, the applicant must pay an additional amount to the Village within the time specified.

(b) The applicant's escrow account shall be assessed for all costs incurred by the Village for fees and disbursements in reviewing the application and proposed use and improvements by professional employees and consultants, which shall include, but not be limited to, the following:

- (1) Review of the application, proposed use, improvements, and the plans.
- (2) Inspection of the site and the improvements as and after such improvements are constructed.
- (3) Tests and other evaluations that are deemed necessary by such professional employees and consultants for their review and inspection.
- (4) Drafting or other preparation of written opinions, advice, and suggestions with respect thereto.
- (5) Drafting and preparation of ordinances, resolutions, contracts, agreements, and other documents with respect thereto.
- (6) Attendance at public meetings or hearings, and telephone and actual conferences.
- (7) Any other professional or related services and disbursements charged to the village which were necessitated by the application and proposed use and improvements.

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(c) If the applicant is not the owner of the premises for which the conditional use permit is sought, no action shall be taken by the Village upon the application unless and until the owner agrees in writing to be jointly and severally responsible for payment of professional expenses as set forth in subsection (b) of this section. The owner of the premises shall be required to sign as a co-applicant with an existing or prospective tenant.

(d) Upon final action on the application, approval of all improvements and erosion and sediment control measures required therein, and payment of all professional expenses incurred by the Village, any balance in escrow shall be returned to the applicant. This shall not prohibit the Village from collecting any additional expenses subsequently charged to the Village.

Sec. 13-3-4. Hearings by Planning Commission.

(a) *Notice of public hearing.* If the application, additional materials, and fees are sufficient as submitted, or have been brought to be sufficient at least 30 days prior to the Planning Commission meeting at which the proposal is to be considered, the Village shall give a class II notice of the public hearing to be held by the Planning Commission, and shall send a copy thereof to the applicant by regular mail at least seven days prior to such hearing.

(b) *Scheduling of public hearing.* A public hearing by the Planning Commission shall be held within 50 days after submission of a complete application or correction of all insufficiencies, whichever is later. If the Planning Commission is unable to have a quorum in attendance at a hearing scheduled within 50 days, the hearing shall be rescheduled, but not more than 65 days after submission of the complete or corrected application. The hearing may be at a meeting of the Planning Commission or may be held jointly with the Village Board but special or joint meetings are not required to be held.

(c) *Planning Commission action.*

- (1) If the Planning Commission determines that the application, additional materials, or fees are insufficient in any respect, whether or not covered by any notice of apparent insufficiency by the Village, or if the applicant fails to attend such public hearing, either personally or by designated representative having full knowledge of the proposal and full authority to commit the applicant on any aspects of the proposal, the Planning Commission may defer action indefinitely or to a subsequent meeting, or may approve or deny the application on the information submitted. The Planning Commission may require that the applicant bears all costs incurred by the Village in rescheduling and holding a subsequent hearing or meeting thereon.
- (2) The Planning Commission may act on the proposal at the conclusion of the public hearing or may defer further action thereon to its next regular or special meeting. On applications for conditional uses, except for home occupations, the Planning Commission shall make a recommendation to the Village Board.
- (3) On applications for home occupations, the Plan Commission shall make a final decision to approve or deny such home occupation. Within ten days after the public hearing, the Village shall send written notice by regular mail to the applicant stating the action taken and, if denied, the right to appeal. An applicant may appeal to the Village Board by written notice of appeal filed with the Village within 15 days after mailing to the applicant of the notice of action taken by the Planning Commission.

Sec. 13-3-5. Village Board action.

(a) The Village Board shall schedule a regular or special meeting within 60 days to act upon the:

- (1) Recommendation of the Planning Commission on an application for conditional use.
- (2) Timely appeal from a Planning Commission decision on application for home occupations.

(b) The Village shall send written notice by regular mail to the applicant at least five days prior to the meeting of the board of trustees. The Village Board shall review the application and information submitted at the Planning Commission meeting at which such decision or recommendation was reached, and may, but shall not be required to, hold an additional public hearing on a class I notice, request additional information, and/or review any information submitted by any interested party subsequent to the Planning Commission meeting, and receive additional information at the meeting of the Village Board. The Village Board shall make a final decision not later than 60 days after filing the appeal or the Planning Commission meeting at which the recommendation was reached.

Sec. 13-3-6. Thirty-day extension.

Upon a majority vote of the members present and voting, the Planning Commission and/or Village Board may extend any of the time limits for holding their respective hearings or meetings, or for reaching their respective recommendations or decisions, for an additional 30 days if they deem it necessary to properly review the application. The Village shall send a written notice by regular mail to the applicant within 5 days of approval of such extension.

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Sec. 13-3-7. Review of site, etc.

The Planning Commission and/or Village Board may, but shall not be required to, as a body or individually, review the site, any neighboring properties, any comparable or similar premises or operations, and any other matter necessary to properly evaluate the proposal and protect the interest of neighbors, the public, and the Village.

Sec. 13-3-8. Conditions.

In approving or recommending approval of any application, the Planning Commission and the Village Board may specify in writing any conditions, restrictions, or other requirements they deem necessary, including, but not limited to, existing and/or proposed structures, architectural design, type of construction, traffic generation and circulation, driveway locations, highway or street access restrictions, parking requirements, landscaping, drainage, sewer and water systems, fencing, lighting, operational controls, special equipment or machinery, hours and days of operation, employee and public safety, fire and building code requirements, security monitoring, accident prevention and reaction plans and needs, floodplain requirements and restrictions, and any other matters related to the interests of neighbors, the public, and the Village.

Sec. 13-3-9. Notice of final decision.

Within ten days after a final decision is reached by the Village Board, the Village shall send written notice by regular mail to the applicant stating the decision reached, the findings of fact and reasons as stated by the board, any conditions imposed as part of the approval, and any other information the Village deems appropriate. Such information may be sent by mailing a copy of the minutes of the meeting at which the decision was reached. If, within 15 days after mailing of such notice to the applicant, and to any other interested party who files a written request therefor within three days after such meeting at which the decision was reached, written request is filed for a more complete statement of the findings of fact, reasons and/or conditions, the body rendering such decision may furnish such notice within 60 days after such request, and may convene a regular or special meeting for that purpose, but shall not be required to supplement its decision if it deems such decision to be sufficient. A written request for a more complete statement shall toll the remaining time for any further action or appeal until three days after the response is mailed to the requesting party, or 60 days if the body rendering such decision fails to make any response thereto.

Sec. 13-3-10. Issuance of permit for conditional use.

(a) If the application is approved, the Village shall issue the permit upon receipt of payment to the Village of all fees and expenses due. If any professional and consulting fees and expenses required under remain unpaid more than 30 days after billing by regular mail from the Village, any permit issued shall automatically be deemed suspended until such fees and expenses, with interest, have been paid. If such fees and expenses remain unpaid for more than 60 days, any permit issued shall automatically be deemed revoked.

(b) The applicant may, upon a written request filed with the Village at least 10 days before the next regular meeting of the Village Board, appeal any suspension or revocation to the Village Board, and the applicant may present any relevant evidence and/or argument at such meeting. Nothing in this section shall prohibit the applicant from paying any disputed fees and expenses under protest, which shall be in writing and specify the fees and expenses protested and the applicant's basis and reasons for disputing such fees and expenses. Such written protest shall be deemed as an appeal.

Sec. 13-3-11. Other zoning provisions are applicable.

Conditional uses shall comply with all other provisions of this Code unless variances therefrom are granted as provided by this Code and state statutes. Pending acting on such variances, the Planning Commission and/or Village Board may proceed and render its recommendations or decisions subject to subsequent decision on applications for variances.

Sec. 13-3-12. Lapse on passage of time.

Conditional uses shall lapse 6 months from the date of issuance if use or construction is not commenced within that time. If an existing business ceases operation, such business' conditional use permit shall cease to exist after six months.

CHAPTER 4: SUPPLEMENTARY DISTRICT REGULATIONS

Sec. 13-4-1. Home occupations.

(a) A home occupation includes a gainful occupation conducted within a residential dwelling or permitted accessory building, conducted only by the immediate family members living there, provided the occupation is clearly incidental and secondary to the property's primary function as a place of dwelling and provided no article is offered for sale on the premises except those items where a substantial portion of the product is produced by such occupation. Such an occupation may not disrupt the general character of the neighborhood in which it exists. Specifically, but not exclusively, such an occupation must not generate vibrations, smoke, dust, odor, heat, or glare noticeable at or beyond the property line, nor cause more than a minor increase in noise, light, traffic, or demand for parking.

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(b) Day care providers certified or licensed by the state, and serving not more than eight enrollees are permitted. Bed and breakfast establishments (see section 13-4-13) may be conditionally permitted as home occupations.

(c) A home occupation permit is not required if work is conducted within a residence, but produces no external indication of such occupation, and generates no adverse impact on the neighborhood. If an occupational sign is displayed, a home occupation permit is required.

(d) A sign may be permitted for a home occupation only if such sign is attached either to the dwelling or a permitted accessory building, and such sign has an area not to exceed two square feet, or on or under the mailbox or fence with an area not to exceed one square foot. Any such permitted sign shall not be illuminated.

(e) Home occupation permits may be reviewed annually. No outside storage incidental to the home occupation is permitted. Commercial repair of motor driven machinery is prohibited in a residential district.

(f) Property owners shall not conduct or permit any home occupation or gainful occupation on their property, other than as permitted in this section and in section 13-2-1 (R-1, R-1A, R-2 districts). Exception: this prohibition does not include the occasional short-term (four days or less per month) rummage/garage sale, lemonade stand, and other like endeavors which have only a very temporary existence.

Sec. 13-4-2. Signs.

(a) No sign shall be erected, moved, reconstructed, enlarged, or structurally altered without a sign permit, except those signs exempted in subsection (b) of this section, and without being in conformity with the provisions of this chapter. A sign is anything that promotes, informs, calls attention to, or invites patronage, including attention-getting devices such as pennants, balloons, banners, etc. The use of audio elements or noisemakers is specifically prohibited. No sign shall contain any indecent or offensive picture or written material. The sign shall also meet all the structural requirements of title 15 of this Code and a separate building permit is required from the building inspector. No signs shall be permitted on any parkland or within any public right-of-way, except for municipal traffic control, parking and directional signs. Any sign within the vision triangle must comply with subsection 13-1-4(e) herein. No signs or banners shall be affixed to utility poles or apparatus, or to official signs. When required, applications for sign permits shall be accompanied by a sign permit fee in the amount specified in Fine and Fee Schedule.

(b) Signs listed in this subsection do not require a sign permit:

- (1) Real estate signs that do not exceed 6 square feet in area, which advertise the sale, rental, or lease of the premises upon which the signs are temporarily located.
- (2) Name and warning signs not to exceed 4 square feet in area, located on the premises.
- (3) Bulletin boards for public, charitable, or religious institutions not to exceed 8 square feet in area, located on the premises.
- (4) 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.
- (5) Official signs, such as street signs, traffic control, official fire call signs, parking restrictions, information and notices.
- (6) Temporary signs or banners for local, civic, or community organizations when authorized by the Village.
- (7) Permanent identification signs for real estate development, provided that such signs do not exceed 32 square feet in surface area on each side, are located on part of the development property, are constructed of lasting materials in earth tone colors, and will be maintained by a landowners' or tenants' association, or other entity permanently associated with such development property. The purpose of such signs is limited to identifying the property or area and shall not be used to promote the sale or rental thereof.
- (8) Rummage or garage sale and/or open house signs that do not exceed 8 square feet in area, but use of this type of sign shall be limited to 72 hours per event and must be removed within 2 hours after the event.
- (9) Political signs with a maximum of 8 square feet may be posted if they are not a hazard to vehicle or pedestrian traffic.
- (10) Decorations for national or religious holidays. Such decorations may be lighted, blink, flash, or move. No such decoration shall interfere with traffic or present any other hazard to the safety or welfare of the public.
- (11) Signs that designate entrances, exits, service areas, parking areas, restrooms, and other signs relating to the functional operation of the building or premises are permitted without limitation other than reasonable size and necessity.
- (12) Interior window signs placed in a B-1, B-2, B-3, P-1, or I-1 district are exempt and shall be placed only on the inside of a commercial building. Interior window signs shall not cover more than 50% of the glass area of the pane upon which it is placed.
- (13) Signs offering land for sale in an approved subdivision. Such signs must be located within the subdivision, be set back not less than 30 feet from the boundaries of the lot on which it is placed and are limited to not more than two

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signs per subdivision, of not more than 32 square feet in area nor more than eight feet in height, for a period of two years from the date of final plat.

- (14) Historical I.D. plaques from the National Register of Historic Places or signs of local historical and/or cultural significance with approval from the Village.
- (15) Signs that only list the address or name of the building, if they are affixed against a wall, are a maximum of 4 square feet in area, and do not project higher than 12 feet above the curb.

(c) All signs are prohibited in residential or conservancy districts, except those permitted in subsection (b) or (C)(9) of this section. Signs are conditional uses in business/commercial, industrial, and P-1 districts requiring a permit under section 13-3-1, but the Zoning Administrator may waive a conditional use permit requirement and issue a sign permit if they determine that the proposed sign will be so unobjectionable as not to be of public concern. Signs are permitted in business/commercial, industrial, and P-1 districts, subject to the following restrictions:

- (1) Wall signs placed against the exterior walls of buildings shall not extend more than 6 inches outside the wall surface of the building. For any premise, the total of all wall signs shall not exceed 100 square feet in area, or 40 percent of the wall surface, whichever is smaller, and shall not exceed 20 feet in height above the mean street grade centerline. Signs placed on a fence shall be a wall sign for the purposes of this ordinance.
- (2) Projecting signs fastened to, suspended from, or supported by structures shall not exceed 50 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 the 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 street grade centerline, 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 street grade centerline, shall meet all yard setback requirements for the district in which it is located, shall not exceed 100 square feet on one side, or 200 square feet on all sides for any premises. Ground signs shall be permanently installed on their site; portable signs are not permitted under this subsection.
- (4) Roof signs shall not exceed 10 feet above the roof, shall meet all yard and height requirements for the district in which it is located, and shall not exceed a total of 100 square feet on all sides for any one premise.
- (5) Combinations of any of the signs set forth in this subsection shall meet all the requirements for the individual sign.
- (6) Business and industrial signs may be internally lit or illuminated by a hooded reflector, provided that the lighting is arranged to prevent glare.
- (7) One on-site temporary sign or banner in compliance with the other requirements of this subsection (c) may be displayed for not more than 60 consecutive days upon issuance of a temporary sign permit. No temporary sign may be placed within a required parking stall. A portable sign may be temporarily permitted under this subsection. Only two temporary sign permits per calendar year may be issued for any premise, with not less than 90 days between permitted displays. Applications for sign permits shall be accompanied by a sign permit fee in the amount specified in the Fine and Fee Schedule.
- (8) Signs that are displayed intermittently or changed periodically require a permanent sign permit with conditions that authorize the intended signage activity.
- (9) A subdivision or development sign displaying only the name may be placed in a residential district. Signs may only be placed in entrances and may not exceed 32 square feet in area or project higher than 6 feet above curb level.

(d) Signs shall not resemble, imitate, or approximate the shape, size, form, or color of traffic signs, signals, or devices. Signs shall not obstruct or interfere with the effectiveness of traffic signs, signals, or devices. No sign shall be erected, relocated, or maintained 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. No sign shall be placed to obstruct or interfere with traffic visibility.

(e) Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited, except those giving public service information such as time, date, temperature, or similar information.

(f) Non-conforming permanent signs lawfully existing before this chapter is enacted or amended, shall be allowed to continue in use and be maintained in a good state of repair but shall not be replaced nor altered, other than to change the message, or relocated without being brought into compliance with the requirements of this chapter. After a non-conforming permanent sign has been removed, it shall not be replaced by another non-conforming sign. Any non-conforming use abandoned for one year shall be permanently discontinued.

(g) Dangerous and/or abandoned signs shall be removed by the owner or lessee of the premises upon which the sign is located when a business which it advertises has not been conducted for a period of 90 days unless the Zoning Administrator determines that such signs add value to the property for sale or lease of said property. When in the judgment of the Zoning Administrator, a sign is so old, dilapidated or is out of repair as to be dangerous or unsafe, such sign shall be removed within 30 days. If the owner or lessee fails to remove it, the Village may remove the sign at the

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expense of the property owner, following adequate written notice. The owner may appeal the decision of the zoning administrator to the Zoning Board of Appeals.

(h) Signs in violation of this section may be removed by the Village at the expense of the owner thereof.

(i) Landscape features such as plant materials, berms, boulders, fencing, and similar design elements in conjunction with freestanding signs are encouraged and are not counted as allowable sign area.

Sec. 13-4-3. Fences.

(a) *Permit required.* No fence shall be erected or constructed prior to obtaining a permit from the building inspector. The fee for such a permit shall be as determined by the Fine and Fee Schedule. The applicant shall provide the Building Inspector with accurate design information for the proposed fence. Permits may only be issued for fences that comply with this Code or are granted a variance in accordance with this title.

(b) *Maintenance and appearance.* All fences shall be properly maintained with respect to appearance and safety. The finished or decorative side of a fence must face the adjoining property.

(c) *Height of fences.*

- (1) A fence in a residential district may not exceed 6 feet in height. A fence in the front yard may not exceed 4.5 feet.
- (2) A fence in business and industrial districts may not exceed 8 feet in height.

(d) *Fence location.* All parts of any fence shall be within the property lines of the person receiving such a permit and shall not extend into the front setback area or into a public right-of-way. Fences are permitted no closer than three feet to a lot line except upon written consent filed with the Village by owners of abutting properties to placement of the fence on the property line. Fences may not obstruct natural drainage. Any fences located within a drainage or utility easement will be reviewed by the Public Works Director.

(e) *Vision Triangle.* Only fences that appear to be at least 75 percent open as viewed from the abutting streets, and which comply with the requirements of section 13-1-4(e) shall be constructed or erected nearer to a street than the front of the principal building on any property.

(f) *Approved fence materials.* All fences shall meet the following material requirements:

- (1) Fences to be situated in side/or rear yards shall be constructed using materials suitable for residential-style fences, including, but limited to brick, fieldstone, wrought iron, vinyl, chain link (with a minimum thickness of 9 gauge and a required top rail support), stockade, or board-on-board wood.
- (2) No fence shall be constructed of used or discarded materials in disrepair, including, but not limited to, pallets, tree trunks, trash, junk, or other similar items. Materials not specifically manufactured for fencing, such as railroad ties, wooden doors, landscape timbers, or utility poles shall not be used for or in the construction of fences.
- (3) Agricultural fences shall only be permitted in agricultural districts and shall not exceed 6 feet in height.

(g) *Prohibited fences.* No person shall install or maintain:

- (1) An electric or razor wire fence.
- (2) Any wire or chain-link type fence with the cut or salvage end of the fence exposed at the top.
- (3) A fence which creates a hazard to users of the street, sidewalk, or to nearby property.
- (4) A fence composed solely of fence posts.
- (5) An incomplete fence, consisting only of post and supporting members.

(h) *Barbed wire fences restricted.* No person shall construct or maintain any barbed wire fence in a residential district.

- (1) Barbed wire fences may be installed in an agricultural district under circumstances where strands of barbed wire are horizontally situated between a fence of boards that do not exceed 6 feet in height.
- (2) Barbed wire may be used on top of an 8-foot fence in a business or industrial district under a conditional use permit or site plan review and the barbed wire project toward the fenced property and away from any public area. Notwithstanding the above, barbed wire shall not be used along a property line abutting a residential district.

(i) *Fences allowed without a permit.* The following types of fences are allowed without a permit, subject to the following restrictions and provided that the fence does not in any way interfere with traffic visibility or block, redirects or cause a drainage problem for the adjacent or downstream properties:

- (1) Underground electrical fences are permitted in all districts. Underground fences are not allowed within the public right-of-way.
- (2) Temporary fences that are intended to restrict public access to construction sites. Said fences shall be removed upon substantial completion of exterior construction and site restoration.

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(3) Seasonal garden fences that are not permanently affixed to the ground.

(j) *Non-confirming fences.* Any fence which existed before 1997, but that does not conform with the provisions of this code, shall be enlarged, replaced in whole or in part, or otherwise altered in any way without conforming the entire fence to the requirements of this code.

Sec. 13-4-4. Retaining walls and slopes.

(a) *In general.*

- (1) *With permit.* Except as allowed in subsection (a)(2) of this section, no retaining wall shall be erected or constructed prior to obtaining a permit from the Building Inspector. The fee for such permit shall be as determined by the Fine and Fee Schedule.
- (2) *Without permit.* The following walls shall be allowed to be erected or constructed prior to obtaining a permit from the building inspector:
 - a. Any single wall or series of walls which do not exceed 4 feet in height.
 - b. Any series of terraced retaining walls in which no single wall exceeds 4 feet in height, and the slope of the series is not greater than one vertical unit per two horizontal units, measured from the bottom of the lowest wall to the top of the highest wall. The Building Inspector shall also include any ground slopes which are within ten feet of the retaining wall or walls which are steeper than 1-foot rise per 3 feet of length.

(b) *Slope.*

- (1) Except as allowed in subsection (b)(2) of this section, no one shall construct any slope steeper than one vertical unit per three horizontal units prior to obtaining a permit from the Building Inspector. The fee for such permit shall be determined by Fine and Fee Schedule.
- (2) A slope may be steeper than one in three provided it does not exceed a total height of 4 feet. No slope shall be steeper than one in 1½.

(c) *Application.* The application for a permit shall be written on a form furnished by the Building Inspector. With each application there shall be submitted two complete sets of plans and specifications, including a plot plan showing the actual dimensions of the lot to be built upon, the horizontal and vertical dimensions of the retaining wall or slope to be constructed and the location of the proposed retaining wall or slope with respect to adjoining streets, lot lines, and buildings. Plans and specifications shall be approved in writing by a licensed engineer or architect; however, if it appears that such approval is not appropriate under the circumstances, such requirement may be waived in writing by the Village Engineer.

(d) *Location.* No part of any retaining wall shall be built on any other public or private property, street, or easement, except within a recorded easement expressly allowing such retaining wall.

(e) *Height.* No retaining wall exceeding 4.5 feet in height shall be erected, constructed, or maintained within a horizontal distance of 10 feet of any property line abutting other property zoned residential or conservancy, except upon written consent filed with the Village by owners of such other property.

Sec. 13-4-5 Swimming Pools.

(a) *Definition.* A private or residential swimming pool is an outdoor structure containing a body of water in a receptacle or other container having a depth for water at any point greater than 1 1/2 feet located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his family, and by friends invited to use it, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of a private or residential swimming pool.

(b) *Exempt pools.* Storable children's swimming or wading pools, with a maximum dimension of 15 feet and a maximum wall height of 48 inches and which are so constructed that they may be readily disassembled for storage and reassembled to their original integrity, are exempt from the provisions of this section.

(c) *Permit required.* Before work commences on the construction or erection of private or residential swimming pools or on any alterations, additions, remodeling or other improvements, an application for a swimming pool building permit to construct, erect, alter, remodel or add must be submitted in writing to the Building Inspector. Plans and specifications and pertinent explanatory data should be submitted to the Building Inspector at the time of application. No work or any part of the work shall be commenced until a written permit for such work is obtained by the applicant. The minimum building permit fee pursuant to the Fine and Fee Schedule shall accompany such application.

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(d) *Construction requirements.* In addition to such other requirements as may be reasonably imposed by the Building Inspector, the Building Inspector shall not issue a permit for construction as provided for in Subsection C unless the following construction requirements are observed:

- (1) All materials and methods for construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and codes and with all ordinances of the Village now in effect or hereafter enacted.
- (2) All plumbing work shall be in accordance with all applicable ordinances of the Village and all state codes. Every private or residential swimming pool shall be provided with a suitable draining method, and in no case shall water from any pool be drained into the sanitary sewer system or onto the lands of other property owners adjacent to that on which the pool is located or in the general vicinity.
- (3) All electrical installations, including lighting and heating but not limited thereto, which are provided for, installed and used in conjunction with a private swimming pool shall be in conformance with the state laws and Village ordinances regulating electrical installations.
- (4) All pools must have side and bottom that are impermeable to prevent water from leaking.

(e) *Setbacks and other requirements.*

- (1) Private swimming pools shall be erected or constructed in rear or side yards only, and only on a lot occupied by a principal building. No swimming pool shall be erected or constructed on an otherwise vacant lot. A lot shall not be considered vacant if the owner owns the contiguous lot and said lot is occupied by a principal building.
- (2) No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in this chapter for an accessory building, but in no case shall the water line of any pool be less than five feet from any lot line.

(f) *Fence.*

- (1) A fence or wall with no openings or breaks, except for gates, not less than 4 feet in height must be placed around the pool or lot on which the pool is located, or the pool must be constructed with a self-contained fence and retractable ladder. If a pool is at least 4 feet in height above surrounding grade, no fencing is required; however, a fold-up ladder which can be locked in the up position shall be required.
- (2) The pool enclosure may be omitted if a pool has a cover or other protective device over it of such design and material that the cover can be securely fastened in place and when in place shall be capable of sustaining a person weighing 250 pounds. Such covers or protective devices shall be securely fastened in place at all times when the swimming pool is not in use.
- (3) Compliance. All swimming pools existing at the time of passage of this chapter not satisfactorily fenced shall comply with the fencing requirements of this section when water is placed in the pool.

(g) *Draining and approval thereof.* No private swimming pool shall be constructed to allow water therefrom to drain into any sanitary sewer or septic tank nor to overflow upon or cause damage to any adjoining property. Provisions may be made for draining the contents of any swimming pool into a storm sewer, but such installation shall be subject to prior approval by the Building Inspector. Pool water must be dechlorinated prior to draining into storm sewer.

(h) *Filter system required.* All private swimming pools within the meaning of this section must have, in connection therewith, some filtration system to assure proper circulation of the water therein and maintenance of the proper bacterial quality thereof.

Sec. 13-4-6 Signal- Receiving Antennas.

(a) *Purpose.* To secure uniformity and compliance with Federal Communications Commission rules (FCC 96-328) on over-the-air reception devices implementing Section 207 of the Telecommunications Act of 1996, this section regulating the placement of signal receiving antennas and over-the-air reception devices is adopted to:

- (1) Provide uniform regulation where necessary of all signal receiving antenna devices.
- (2) Secure placement of such antennas in an aesthetically sensitive manner while allowing users reasonable reception of signals.
- (3) Preserve the integrity of historic preservation districts.
- (4) Protect the public from injury from roof-mounted antennas that are inadequately mounted, unduly susceptible to wind pressure, improperly installed and wired, or are placed on structures insufficiently designed or constructed to safely support the roof-mounted antenna; and
- (5) Provide for placement of such antennas in locations that preserve access to rear property areas by fire-fighting apparatus and emergency personnel.

(b) *Definitions.* As used in this section, the following terms shall have the meanings indicated:

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- (1) **Owner:** The holder of record of an estate in possession in fee simple, or for life, in land or real property, or a vendee of record under a land contract for the sale of an estate in possession in fee simple or for life but does not include the vendor under a land contract. A tenant in common or joint tenant shall be considered such an owner to the extent of his/her interest. The personal representative of at least one owner shall be considered an owner.
- (2) **Signal-receiving antenna:** Any outdoor apparatus capable of receiving communications from a transmitter or a transmitter relay located in a planetary orbit. This definition includes all types of signal-receiving antennas and over-the-air reception devices, including, without limitation, parabolic antennas, home earth stations, satellite television disks, UHF and VHF television antennas, and AM, FM, ham and short-wave radio antennas, regardless of the method of mounting.

(c) *Exemption.* Signal receiving devices less than 24 inches in diameter or roof-mounted antennas not exceeding 10 feet in height are exempt from the requirements of this section, except for the requirements in Subsection d (1), (7), (9), and (12).

(d) *Installation standards.* Signal-receiving antennas installed in any zoning district within the Village shall comply with the following provisions:

(1) *Setbacks.*

- a. Any signal-receiving antenna and its mounting post shall be located a minimum of 5 feet from any side or rear property line. The purpose of setback regulations is to protect the aesthetics of the area and to preserve adequate access for emergency equipment and personnel.
- b. Subject to the provisions herein, signal-receiving antennas shall only be in the rear yard of any lot. If reasonable reception of signals is not possible with a rear yard placement due to the physical characteristics of the lot and area, the signal-receiving antenna may be placed in the side yard of the lot. If reasonable reception of signals is not possible by locating the signal-receiving antenna on the rear or side yard of the property, such antenna may be placed in the front yard or on the roof of structures on the property. For corner lots, a side yard is only a yard that does not face a street.
- c. If a side yard, front yard or roof mounting is requested, the Zoning Board of Appeals shall determine where reasonable reception is possible, based on evidence provided by the person seeking to erect or construct the antenna.

(2) *Mounting.* Signal-receiving antennas attached to the roof of any principal or accessory structure shall be permitted only if the structure is properly constructed to carry all imposed loading and comply with applicable state and local building code requirements. The Zoning Administrator may require engineering calculations.

(3) *Diameter.* The diameter of the signal receiving antenna shall not exceed 12 feet for the ground-mounted antenna and 10 feet for the roof-mounted antenna, except for stations used to provide community antenna television services.

(4) *Height.* A ground-mounted signal-receiving antenna, including any platform or structure upon which said antenna is mounted or affixed, may not exceed 14 feet in height, as measured from the ground to the highest point of the dish.

(5) *Roof-mounted antennas.*

- a. In all residential zoning districts, roof-mounted antennas shall only be permitted subject to the provisions contained herein:
 1. Earth station dish antennas exceeding 36 inches in diameter shall not be permitted on the roof.
 2. A roof-mounted dish antenna shall not extend higher than 15 feet above the highest point of the roof.
- b. In the commercial and industrial zoning districts, earth station dish antennas shall not extend more than 20 feet above the height limit established for the district in which the structure is located.

(6) *Wind pressure.* All signal-receiving antennas shall be permanently mounted in accordance with the manufacturer's specifications for installation. All such installations shall meet a minimum wind load design velocity of 80 miles per hour.

(7) *Electrical installations.* To safeguard public safety, electrical installations in connection with signal-receiving antennas, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code and the instructions of the manufacturer. In cases of conflict, the stricter requirements shall govern. All cables used to conduct current or signals from the signal-receiving antenna to the receivers shall be installed underground unless installation site conditions preclude underground. If a signal-receiving antenna is to be used by two or more residential property owners, all interconnecting electrical connections, cables and conduits must also be buried. The location of all such underground lines, cables and conduits shall be shown on the application for a permit. All signal-receiving antennas shall be grounded against direct lightning strikes.

(8) *Temporary placement.* No portable or trailer-mounted signal receiving antenna shall be allowed, except for temporary installation for on-site testing and demonstration purposes for periods not exceeding 5 days. However, such trial placement shall be in accordance with all provisions of this section.

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- (9) *Advertising*. No form of advertising or identification, sign or mural is allowed on the signal receiving antenna other than the customary manufacturer's identification plates.
- (10) *Interference with broadcasting*. Signal-receiving antennas shall be filtered and/or shielded to prevent the emission or reflection of an electromagnetic radiation that would cause any harmful interference with the radio and/or television broadcasting or reception on adjacent properties. If harmful interference is caused after its installation, the owner of the signal-receiving antenna shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
- (11) *Compliance with federal regulations*. The installation and use of every signal receiving antenna shall be in conformity with the Federal Cable Communications Policy Act of 1984 and regulations adopted thereunder, including Federal Communications Commission rules.
- (12) *Aesthetic considerations*. Signal-receiving antennas shall be located and designed to reasonably reduce visual impact from surrounding properties at street level.

Sec. 13-4-7 Wireless telecommunications systems.

(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) Regarding class 1 collocation, the substantial modification of an existing support structure and mobile service facilities; and
- (3) Regarding 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) *Authority*. The Village has the specific authority under Wis. Stats. §§ 62.23 and 66.0404, to adopt and enforce this section.

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

- (1) *Antenna*. Any device or equipment used for the transmission or reception of electromagnetic waves, which may include omni-directional antenna (rod), directional antenna (panel) or parabolic antenna (disc).
- (2) *Collocation*. The location of more than one (1) antenna or set of antennas on the same tower structure.
- (3) *FAA*. Federal Aviation Administration.
- (4) *FCC*. Federal Communications Commission.
- (5) *Height*. The distance measured from ground level to the highest point on a tower or structure, including any antenna.
- (6) *High Power Transmission Line*. A 69 kv or greater electric transmission line with towers at least 75' in height.
- (7) *Tower*. Any structure that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including guy towers, monopole towers and self-supporting lattice towers.
- (8) *Tower Accessory Structure*. Any structure located at the base of a tower for housing base receiving or transmitting equipment.
- (9) *Wireless Communications*. Any personal wireless services as defined in the Telecommunications Act of 1996, including FCC licensed commercial wireless telecommunications services such as cellular, personal communication services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging and similar services that currently exist or may be developed.

(d) *Siting and construction of any new mobile service support structures and facilities*.

(1) *Application Process*.

- a. A 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 Village.
- b. A written permit application must be completed by any applicant and submitted to the Village. 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.

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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 Village upon request to any applicant.
- d. If an applicant submits to the Village an application for a permit to engage in an activity described in this ordinance, which contains all the information required under this ordinance, the Village shall consider the application complete. If the Village does not believe that the application is complete, the Village 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 Village shall complete all the following or the applicant may consider the application approved, except that the applicant and the Village 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 deny the application, include with the written notification substantial evidence which supports the decision.
- f. The Village may deny 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 b.6.
- g. If an applicant provides the Village 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 Village provides the applicant with substantial evidence that the engineering certification is flawed.
- h. The fee for the permit is listed in Fine and Fee Schedule.

(b) General Requirements.

- (1) All towers and antennas shall comply with all FCC and FAA rules and regulations.
- (2) The monopole design is the preferred tower structure. If a monopole tower can be built, that is what will be built. Use of guy or lattice towers must be justified based on collocation opportunities or specific site and/or structural requirements which will preclude the use of a monopole tower. Guy and lattice towers will not be allowed without such justification.
- (3) Design and installation of all towers and antennas shall comply with the manufacturer's specifications. Plans shall be approved and certified by a registered professional engineer.
- (4) Installation of all towers and antennas shall comply with all applicable State and local building and electrical codes.
- (5) For leased sites, written authorization for siting the wireless communication facilities from the property owner must be provided and on file with the Village.
- (6) The owner of the tower is responsible and liable for electrical interference resulting from the tower, including, but not limited to, radio interference, power surges, stray voltage and ground/earth currents.
- (7) All towers and antennas must be adequately insured for injury and property damage.
- (8) All unused towers and antennas must be removed within 12 months of cessation of operation or use, unless a written exemption is provided by the Zoning Administrator. After the facilities are removed, the site shall be restored to its original or an improved condition, and anchoring elements shall be removed from the ground to within 8' of ground level. If removal and/or restoration are not completed, the Village is authorized to complete the removal and site restoration and the cost shall be assessed against the property as a special assessment.
- (9) When applicable, proposals to erect new towers and antennas shall be accompanied by any required Federal, State or local agency licenses or applications for such licenses.
- (10) Only one (1) tower is permitted on a parcel of land. Additional towers may be permitted with a conditional use permit if each additional tower is located within 200' of the first tower located on the parcel and all other requirements of this subchapter and for conditional use permits are met.
- (11) Screening and Landscaping. The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped with a buffer of plant materials that effectively screen the view of all tower accessory structures, equipment and improvements at ground level from adjacent properties. The standard buffer shall consist of a landscaped strip at least 4' wide outside the perimeter of the area where tower accessory structures and equipment are located at ground level. In locations where the visual impact of the tower would be

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minimal, the landscaping requirement may be reduced or waived by the Village. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible.

(12) Security Fencing and Lighting.

- a. All towers shall be reasonably protected against unauthorized access. The bottom of the tower from ground level to 12' above ground shall be designed to preclude unauthorized climbing and shall be enclosed with a minimum of a 6' high chain link fence with a locked gate.
- b. Security lighting for on-ground facilities and equipment is permitted, if it is down shielded to keep light within the boundaries of the site.

(13) Color and Materials.

- a. All towers and antennas shall use building materials, colors, textures, screening and landscaping that blend the facilities with the surrounding natural features and built environment to the greatest extent possible. The tower shall be painted light blue or another color or colors that are demonstrated to minimize visibility. Mottling of light blue and light gray can be an effective camouflage for towers against most sky conditions and is the preferred tower coloration.
- b. All metal towers shall be constructed or treated with corrosion resistant material.

(14) Parking and Access. Adequate parking spaces shall be provided on each site so that parking on a public road right-of-way will not be necessary. Additional parking may be required by the Village if the minimum parking proves to be inadequate. Access must be provided by a gated, all-weather driveway.

(c) Prohibitions.

- (1) No advertising message or sign shall be affixed to any tower or antenna.
- (2) Towers and antennas shall not be artificially illuminated unless required by FCC or FAA regulations. Any artificial illumination on a tower must be deflected from view of residences or farmsteads within 1,500' of the tower. Lighting after hours of darkness shall be red.
- (3) No part of any tower or antenna shall extend across or over any right-of-way, public street, highway, sidewalk or property line.
- (4) No temporary mobile communication sites are permitted except in case of equipment failure, equipment testing, equipment replacement, or in the case of an emergency authorized by the Zoning Administrator. Use of temporary mobile communication sites for testing purposes shall be limited to 36 hours, and the use of temporary mobile communication sites for equipment failure, equipment replacement, or in the case of emergency situations, shall be limited to 30 days, unless extended in writing by the Zoning Administrator.

(d) Application Process.

(1) Class 1 Collocation Process.

- a. A zoning permit is required for class 1 collocation. A class 1 collocation is a conditional use in the Village.
- b. A written permit application must be completed by any applicant and submitted to the Village. 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 Village upon request to any applicant.
- d. If an applicant submits to the Village an application for a permit to engage in an activity described in this section, which contains all the information required under this section, the Village shall consider the application complete. If the Village does not believe that the application is complete, the Village shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification

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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 Village shall complete all the following or the applicant may consider the application approved, except that the applicant and the Village 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 deny the application, include with the written notification substantial evidence which supports the decision.
- f. The Village may deny 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 b.6.
- g. If an applicant provides the Village 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 Village provides the applicant with substantial evidence that the engineering certification is flawed.
- h. The fee for the permit is listed in the Fine and Fee Schedule.

(2) Class 2 Collocation.

- a. A zoning permit is required for class 2 collocation. A class 2 collocation is a permitted use in the Village but still requires the issuance of the permit.
- b. A written permit application must be completed by any applicant and submitted to the Village. 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 Village 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 Village an application for a permit to engage in an activity described in this section, which contains all the information required under this ordinance [section], the Village shall consider the application complete. If any of the required information is not in the application, the Village 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 Village shall complete all the following or the applicant may consider the application approved, except that the applicant and the Village may agree in writing to an extension of the 45-day period:
 - 1. Make a final decision whether to approve or deny 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 deny the application, include with the written notification substantial evidence which supports the decision.
- g. The fee for the permit is in the Fine and Fee Schedule.

Sec. 13-4-8 Wind Energy Systems.

(a) Definitions. As used in this section.

- (1) "Meteorological tower (met tower)" is defined to include the tower, base plate, anchors, guy cables and hardware, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.
- (2) "Owner" shall mean the individual or entity that intends to own and operate the small wind energy system in accordance with this section.
- (3) "Rotor diameter" means the cross-sectional dimension of the circle swept by the rotating blades.
- (4) "Small wind energy system" means a wind energy system that:
 - a. Is used to generate electricity;
 - b. Has a nameplate capacity of one hundred (100) kilowatts or less; and
 - c. Has a total height of one hundred seventy (170) feet or less.

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- (5) "Total height" means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point.
- (6) "Tower" means the monopole, freestanding, or guyed structure that supports a wind generator.
- (7) "Wind energy system" means equipment that converts and then stores or transfers energy from the wind into usable forms of energy. This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.
- (8) "Wind generator" means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(b) *Standards.* A small wind energy system shall be a permitted use in all extraterritorial zoning districts of the Village subject to the following requirements:

- (1) *Setbacks.* A wind tower for a small wind system shall be set back a distance equal to its total height multiplied by a factor of 1.1 from:
 - a. Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road for a lesser setback;
 - b. Any overhead utility lines, unless written permission for a lesser setback is granted by the affected utility; and
 - c. All property lines, unless written permission is granted from the affected landowner and neighboring property owner for a lesser setback.

The setback of a tower from any residence not owned by the owner of the wind generator shall be the total height of the wind tower multiplied by a factor of two.

- (2) *Access.*
 - a. All ground mounted electrical and control equipment shall be secured to prevent unauthorized access. If, in the opinion of the city plan director, labeling the equipment shall be sufficient, permission may be granted on a case-by-case basis to require labeling only.
 - b. The tower shall be designed and installed to provide a smooth non-climbable surface for a minimum height of eight feet above the ground.
 - c. If the tower is of climbable (lattice) construction. An eight-foot-high non-climbable fence must be constructed around the base. Any access doors or gates must be locked.
- (3) *Electrical Wires.* All electrical wires associated with a small wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- (4) *Lighting.* A wind tower and generator shall not be artificially lit unless such lighting is required by the Federal Aviation Administration.
- (5) *Appearance, Color, and Finish.* The wind generator and tower shall remain painted or finished in the color or finish that was originally applied by the manufacturer, unless approved in the building permit.
- (6) *Signs.* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a small wind energy system visible from any public road shall be prohibited.
- (7) *Code Compliance.* A small wind energy system including tower shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
- (8) *Utility Notification and Interconnection.* Small wind energy systems that connect to an electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."
- (9) *Met towers* shall be permitted under the same standards, permit requirements, restoration requirements, and permit procedures as a small wind energy system.
- (10) *Noise Compliance.* A small wind energy system shall not emit noise more than 5 dBA above ambient sound when measured at the property line nearest to the system.

(c) *Permit Requirements.*

- (1) A permit shall be required for the installation of a small wind energy system.
- (2) *Documents.* The permit application shall be accompanied by a plot plan that includes the following:
 - a. Property lines and physical dimensions of the property;
 - b. Location, dimensions, and types of existing major structures on the property;
 - c. Location of the proposed wind system tower;
 - d. The right-of-way of any public road that is contiguous with the property;
 - e. Any overhead utility lines;
 - f. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type (freestanding or guyed).
- (3) *Blueprints/Drawings.* The tower foundation blueprints and drawings as well as the tower blueprint and drawing shall be submitted to the Building Inspector prior to commencement of construction of the tower base or tower. The

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structural design shall be certified by a state certified engineer. Installation shall be under the supervision of an engineer licensed by the state of Wisconsin.

- (4) **Fees.** The fee set in the Fine and Fee Schedule must accompany the application for a small wind energy system. The applicant shall also pay any other expenses incurred by the Village in connection with the permit application, including engineering, consulting and legal fees. Building permit fees shall be separate and shall be collected by the Building Inspector in accordance with the Fine and Fee Schedule.
- (5) **Inspection/Insurance.** The applicant shall submit to the Village proof of adequate liability insurance, such insurance to be in the minimum amount of one million dollars (\$1,000,000.00) per occurrence. In addition, applicants shall submit to the Building Inspector evidence that applicant has in place a long-term service and maintenance contract providing for inspections at least annually. The applicant shall provide proof of financial responsibility for final removal of the wind energy system should that become necessary.
- (6) **Hold Harmless.** The owner of any wind energy system may be required by the Village to execute a "hold harmless" agreement as a condition of building permit approval, holding the Village harmless in connection with any injury occurring to person or property because of malfunction or collapse of the small wind energy system.
- (7) **Expiration.** A permit issued pursuant to this section shall expire if:
 - a. The small wind energy system is not installed and functioning within twenty-four (24) months from the date the permit is issued; or
 - b. The small wind energy system is out of service or otherwise unused for a continuous six-month period.

(d) Permit Procedure.

- (1) An owner shall apply to the Village for approval of a small wind energy system. The application must be on a form approved by the Village and must be accompanied by four copies of the plot plan and blueprints/drawings as described in permit requirements.
- (2) The Village shall act upon the application within 60 days of the date on which the application is received and shall approve the application if materials submitted show that the proposed small wind energy system meets the requirements of this section.
- (3) If the application is approved, the Village will return one signed copy of the application.
- (4) If the application is rejected, the Village will notify the applicant in writing and provide a written statement of the reason why the application was rejected. The applicant may reapply if the deficiencies specified by the Village are resolved.
- (5) Upon approval of the Village, the Building Inspector may issue a building permit for the approved small wind energy system once the building permit process is complete.
- (6) The owner shall conspicuously post the building permit on the premises to always be visible to the public until construction or installation of the small wind energy system is complete.
- (7) Any appeal of a decision made by the Village under this section shall be heard and considered by the Zoning Board of Appeals.

(e) Abandonment.

- (1) A small wind energy system that is out-of-service for a continuous six-month period will be deemed to have been abandoned. The Village shall issue a notice of abandonment to the owner of record of a small wind energy system that is deemed to have been abandoned. The owner shall have the right to respond to the notice of abandonment within 30 days from the notice receipt date. The Village shall withdraw the notice of abandonment and notify the owner that the notice has been withdrawn if the owner provides information that demonstrates the small wind energy system has not been abandoned.
- (2) If the small wind energy system is determined to be abandoned, the owner of a small wind energy system shall remove the wind generator and the tower at the owner's sole expense within 90 days of receipt of notice of abandonment. If the owner fails to remove the wind energy system and the tower, the Village may pursue a legal action to have the wind generator and the tower removed at the owner's expense.

(f) Violations. It is unlawful for any person to construct, install, or operate a small wind energy system that is not in compliance with this section.

Sec. 13-4-9 Parking areas and driveways.

Parking areas and driveways for any multiple-family, commercial, or industrial/commercial premises or use shall, unless otherwise provided in a conditional use permit issued pursuant to Chapter 3 of this chapter, be designed and constructed as follows:

1. The dimensions of parking spaces and driveways shall conform to the following:

Parking Stall Dimensions				
Angle of Parking	Stall width	Curb length	Stall depth perpendicular to curb	Driveway width

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Parallel	10'	23'-0"	10'-0"	12'-0"
45°	10'	14'-2"	20'-6"	13'-0"
60°	10'	11'-6"	21'-6"	18'-0"
90°	10'	10'-0"	19'-0"	24'-0"

The dimensions are for outside parking, which allows vehicles to overhang at the edge of the parking lot (front of the car). Indoor parking shall be designed by a building architect. These dimensions apply to double-loaded and single-loaded driveways.

2. Parking Lot Driveways shall have a width of at least 24 feet unless a lesser width is approved for portions restricted to one-way traffic. All other driveways shall conform to Village Code, Title 6.
3. Areas or lands for access to garages or parking spaces shall not be considered parking spaces, but this shall not prohibit parking spaces from facing each other if each parking space has separate access.
4. All garages, parking spaces, driveways, and other areas designed for motor vehicles shall be surfaced with asphalt or concrete at the time of construction and shall be drained to a storm sewer constructed within the parking lot or driveway. The storm sewer shall be connected to a public storm sewer. All parking lots and driveways shall have a perimeter concrete curb or curb and gutter.

Sec. 13-4-10 Accessory Uses or Structures.

(a) Principal use to be present. An accessory use or structure in any zoning district shall not be established prior to the principal use or structure being present or under construction. Any accessory use or structure shall conform to the applicable regulations of the district in which it is located, except as specifically otherwise provided.

(b) Placement restrictions in residential districts. An accessory use or structure in a residential district may be established subject to the following regulations:

- (1) Accessory building number limits. In any residential district, in addition to the principal building, a detached garage or attached garage and one additional accessory building may be placed on a lot.
- (2) Accessory building size limits. No attached accessory building or structure shall exceed the height of the principal building or structure or 24 feet, whichever is more restrictive.
- (3) Attached accessory buildings. All accessory buildings which are attached to the principal building shall comply with the yard requirements of the principal building.
- (4) Detached accessory buildings. No accessory structure shall extend closer to a street than the principal structure located on the lot. Accessory uses and structures which require a reduction in yard requirements may be in the rear yard only. Accessory uses and structures shall not be closer than 10 feet to the principal structure; however, if the load-bearing walls of each structure have at least a one-hour fire rating, the Building Inspector may permit a building separation of only five feet. Accessory structures in business and industrial districts shall not exceed 25 feet in height and accessory structures shall not exceed 15 feet in all other districts. Accessory uses and structures placed in the rear yard of any district shall not occupy more than 20% of the rear yard area, or shall not exceed 400 square feet, whichever is more restrictive, and shall follow the setback requirements prescribed for the pertinent district.
- (5) Garages. Garages, whether attached or detached, shall comply with the dimensional requirements of the zoning district in which they are located. Garages shall comply with the setback requirements applicable for principal structures on the lot.
- (6) Detached garages. Detached garages are permitted in the rear yard and side yards only. They shall not exceed the area requirements found in the standards for each zoning district and the roof pitch shall not exceed the steepest pitch of the principal structure. The total lot coverage shall not exceed the total allowed as set forth in the zoning district where the garage will be located. Total lot coverage shall include all buildings located on the lot.

(c) Use restrictions in residential districts. Accessory uses or structures in residential districts shall not involve the conduct of any business, trade or industry except for home occupations as defined and authorized herein and shall not be occupied as a dwelling unit.

(d) Placement restrictions in non-residential districts. An accessory use or structure in a business or industrial district may be established in the rear yard or side yard and shall have setbacks as prescribed in each zoning district.

(e) Reversed corner lots. When an accessory structure is located on the rear of a reversed corner lot, it shall not be located beyond the front yard required on the adjacent interior lot to the rear, nor nearer than five feet to the side line of the adjacent structure.

(f) Landscaping and decorative uses. Accessory structures and vegetation used for landscaping and decorating may be placed in any required yard area. Permitted structures and vegetation include flagpoles, ornamental light standards, lawn furniture, sundials, birdbaths, trees, shrubs and flowers and gardens.

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(g) *Temporary uses.* Temporary accessory uses such as real estate sale field offices or shelters for materials and equipment being used in the construction of the permanent structure may be permitted by the Zoning Administrator and shall be removed within 30 days of occupancy of the project.

(h) *Garages in embankments in front yards.* Where the mean natural grade of a front yard is more than eight feet above the curb level, a private garage may be erected within the front yard, following approval by the Village Board, provided that:

- (1) Such private garage shall be located not less than five feet from the front lot line;
- (2) The floor level of such private garage shall be not more than one foot above the curb level; and
- (3) At least 1/2 the height of such private garage shall be below the mean grade of the front yard.

(i) *Outdoor lighting.* Outdoor lighting installations shall not be permitted closer than three feet to an abutting property line and, where not specifically otherwise regulated, shall not exceed 15 feet in height and shall be adequately shielded or hooded so that no excessive glare or illumination is cast upon the adjoining properties.

(j) *Lawn accessories.* Walks, drives, paved terraces and purely decorative garden accessories such as pools, fountains, statuary, flagpoles, etc., shall be permitted in setback areas but not closer than 3 feet to an abutting property line other than a street line.

(k) *Offensive uses prohibited.* No accessory use shall be dangerous, obnoxious or offensive to persons residing in the vicinity, nor shall impair the use, enjoyment or value of any property.

(l) *Prohibited dwelling use.* No accessory dwelling unit in any residential district shall be used or let for living purposes for compensation.

(m) *Gardening.* Home gardening may be an accessory use on any dwelling lot or the principal use on any vacant lot or parcel.

Sec. 13-4-11 Outdoor Storage of Firewood.

(a) No person shall store firewood in the front yard on residentially zoned property, except that firewood may be temporarily stored in the front yard for a period of 30 days from the date of its delivery.

(b) Firewood should be neatly stacked and may not be stacked closer than two feet to any lot line and not higher than six feet from grade, except adjacent to a fence where firewood can be stacked against the fence as high as the fence. "Fence" as used in this section shall not include hedges and other vegetation.

(c) All brush, debris and refuse from the processing of firewood shall be promptly and properly disposed of and shall not be allowed to remain on the premises.

(d) Woodpiles that contain diseased wood that is capable of transmitting disease to healthy trees and woodpiles that harbor or are infested or inhabited by rats or other vermin are public nuisances and may be abated pursuant to the provisions of this Code.

(e) Not more than 15% of the side and rear yard may be used for storage of firewood at any one time.

Sec. 13-4-12 Portable Storage Containers

(a) *Permit required.* A permit is required prior to placing any portable storage container outside on any property. A permit issued for the use of a portable storage container shall be valid only for the location for which the permit was issued. A permit application shall be submitted to the Village, together with the applicable fee established in the Fine and Fee Schedule.

(b) *Definition.* A portable storage container is any container, including, but not limited to, a single storage unit, cargo or shipping container, shed-like container or other portable structure, (other than a permanent accessory building, as defined in this code), that can be or is used for the storage of property of any kind and which is located for such purposes outside an enclosed building.

(c) *Use conditions.*

- (1) No portable storage container may be used for residential purposes or incorporated into the structure of a building that is used for any type of human occupancy

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- (2) No more than one portable storage container shall be on a property at any given time.
- (3) A portable storage container shall not be larger than 10 feet wide, 20 feet long and 10 feet high.
- (4) A portable storage container shall only be placed in the rear or side yard of a property in a residential district, unless it is being used temporarily for construction or moving purposes. A portable storage container in a commercial or industrial district may be on the front, rear, or side yard.
- (5) A portable storage container shall follow all setbacks for accessory structures for the district it is in.
- (6) A portable storage container shall be placed on a hard surface such as asphalt, concrete, or compacted gravel. If no such location is available on the property, an alternate location shall be applied for and may be approved by the Village. The applicant shall describe, in writing, why the alternate location is required, where the container will be located, and explain that there will be no harm to the public health, safety and welfare.
- (7) The portable storage container shall only be delivered between the hours of 7:00 a.m. and 7:00 p.m.
- (8) Portable storage containers for construction purposes are permitted during ongoing construction on a property for which a building permit has been issued and remains valid, and work is actively progressing. Such portable storage containers must be removed from that property within 7 calendar days of a final inspection or occupancy permit being issued pursuant to the building permit.
- (9) Any permanently installed portable storage container shall use building materials, colors, textures, screening and landscaping that blend the facilities with the surrounding natural features and built environment to the greatest extent possible. Permanent installations shall also be securely anchored to prevent movement of the structure in high winds. All metal portable storage containers shall be constructed or treated with corrosion resistant material.

Sec. 13-4-13 Bed and breakfast establishments.

(a) *As conditional use.* Bed-and-breakfast establishments shall be considered conditional uses and may be permitted in residential districts pursuant to this article.

(b) *Definition.* "Bed-and-breakfast establishment" means any place of lodging that provides eight or fewer rooms for rent to no more than a total of 20 tourists or other transients for more than 10 nights in a twelve-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.

(c) *State standards.* Bed-and-breakfast establishments shall comply with the standards of Ch. DHS 197, Wis. Adm. Code.

Sec. 13-4-14 Adult Establishments.

(a) *Purpose.* The purpose of this chapter is to create an overlay zoning district whereby adult establishments are sufficiently separated from each other and conflicting uses to ameliorate the negative secondary effects of adult uses while providing adult establishments with sufficient area and opportunity to operate within the Village so as not to suppress their existence.

(b) *Definitions.* As used in this section:

- (1) "Adult establishment" includes adult bookstores, adult motion picture theaters, adult novelty stores, and further means any premises to which public patrons or members are invited or admitted that is substantially devoted to the purveyance, demonstration or display of specified sexual activities or specified anatomical areas.
- (2) "Adult bookstore" means an establishment which as its substantial course of conduct, presents adult entertainment for observation by patrons therein, or which, as part of its substantial course of conduct, offers for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, magazines or other such media, which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
- (3) "Adult entertainment" means any exhibition of any motion picture, live performance, display or dance of any type which has as a significant or substantial portion of such performance, or is distinguished or characterized by an emphasis on, any actual or simulated performance of specified sexual activities or exhibition and viewing of specified anatomical areas.
- (4) "Adult motion picture theater" means any establishment for the presentation of motion pictures that as its dominant theme or distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities, or specified anatomical areas for observations by patrons therein.
- (5) "Adult novelty store" means any establishment which as its substantial course of conduct offers for sale, rent, trade, lease, inspection or viewing any adult novelty items, sex toys, sexual gratification appliances, or other similar products, excluding contraceptives or similar products of medical value, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to specified anatomical areas or specified sexual activities.
- (6) "Specified anatomical areas" means either:
 - a. 1. Less than completely and opaquely covered human genitals pubic region;
 - b. 2. Human male genitals in a discernible turgid state, even if opaquely covered;

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- c. 3. Less than completely and opaquely covered nipples or areolas of the human female breast.
- (7) "Specified sexual activities" means simulated or actual:
 - a. 1. Showing of human genitals in a state of sexual stimulation or arousal;
 - b. 2. Acts of masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio or cunnilingus; or
 - c. 3. Fondling or erotic touching of human genitals, pubic region, buttocks or female breasts.
- (8) "Substantial" means forty (40) percent or more of a business stock in trade, display space, floor space or retail sales in any one month. Upon reasonable belief that an entity is more than the forty (40) percent threshold, that entity shall provide all necessary records, receipts and documentation to the Village upon request. Failure to do so shall result in a presumption that the entity is operating more than the threshold.

(c) *Location.* No adult establishment shall be located:

- (1) Within any zoning district other than general commercial or industrial;
- (2) Within five hundred (500) (plus) feet of an other adult establishment;
- (3) Within five hundred (500) feet of any residential zoning district;
- (4) Within one thousand (1000) feet of any school, church or place of worship, or licensed daycare in existence at the time of application;
- (5) Within five hundred (500) feet of any establishment licensed to sell or dispense fermented malt beverages or intoxicating liquor in existence at the time of application.

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

(d) *Hours of operation.* No adult establishment shall be open between the hours of two (2:00) a.m. and eight (8:00) a.m., Monday through Friday, between the hours of two-thirty (2:30) a.m. and eight (8:00) a.m. on Saturdays, or between the hours of two-thirty (2:30) a.m. and twelve (12:00) noon on Sundays.

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

CHAPTER 5: PERFORMANCE STANDARDS

Sec. 13-5-1 Intent.

It is the intent of this article to use performance standards for the regulation of uses to facilitate a more objective and equitable basis for control and to ensure that the community is adequately protected from potential hazardous and nuisance-like effects. This chapter permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following environmental performance standards.

Sec. 13-5-2 Noise.

(a) *I-1 District.* No activity in an I-1 Industrial District shall produce a sound level outside the district boundary that exceeds the following sound level measured by a sound level meter and associated octave band filter:

Octave Band Frequency (cycles per second)	Sound Level (decibels)
0 to 74	79
75 to 149	74
150 to 299	66
300 to 599	59
600 to 1,199	53
1,200 to 2,399	47
2,400 to 4,799	41
Above 4,800	39

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(b) *Other districts.* All noise shall be so muffled or otherwise controlled as not to become objectionable due to intermittence, duration, beat frequency, impulse character, periodic character or shrillness. No other activity in any other district shall produce a sound level outside its premises that exceed the following:

Octave Band Frequency (cycles per second)	Sound Level (decibels)
0 to 74	72
75 to 149	67
150 to 299	69
300 to 599	52
600 to 1,199	46
1,200 to 2,399	40
2,400 to 4,799	34
Above 4,800	32

(c) *Exempt noises.* The following noises are exempt from the regulations:

- (1) Noises not directly under the control of the property owner.
- (2) Noises from temporary construction or maintenance activities between 7:00am and 10:00pm.
- (3) Noises from emergency, safety or warning devices.

Sec. 13-5-3 Vibration.

No operation which creates vibrations which are readily detectable without the use of instruments at any point along lot lines shall be permitted. Vibrations not directly under the control of the property user and vibrations from temporary construction or maintenance activities shall be exempt from the above standard.

Sec. 13-5-4 Radioactivity and electrical disturbances.

No operation or activity shall emit radioactivity, in violation of Title 10, Chapter [1](#), Part 20, Code of Federal Regulations, Standards for Protection Against Radiation, dated June 16, 1957, or any subsequent revisions or amendments, or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

Sec. 13-5-5 Glare and heat.

No direct or reflected glare or heat from any I-1 zone shall be detectable from any residential zone boundary.

Sec. 13-5-6 Odor.

No operation or activity shall emit any substance or combination of substances in such quantities that create an objectionable odor as defined in § NR 429.03, Wis. Adm. Code.

Sec. 13-5-7 Fire and explosive hazards.

All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive material shall be provided with adequate safety devices against the hazard of fire and explosion, and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire-extinguishing system.

Sec. 13-5-8 Air pollution.

(a) No operation or activity shall emit into the ambient air from any direct or portable source any matter that will affect visibility more than the limitations established in Ch. NR 431, Wis. Adm. Code.

(b) No activity or operation shall be established or maintained which by reason of its nature causes emission of any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of people, animals, vegetation or property. In no case shall any activity emit any liquid or solid particles in concentrations exceeding 0.3 grain per cubic foot of the conveying gas, nor any color visible smoke equal to or darker than No. 2 on the Ringelmann Chart described in the United States Bureau of Mines' Information Circular 7718 in any Industrial District.

Sec. 13-5-9 Hazardous pollutants.

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(a) *Pollutants.* No operation or activity shall emit any hazardous substances in such a quantity, concentration or duration as to be injurious to human health or property, and all emissions of hazardous substances shall not exceed the limitations established in Ch. NR 445, Wis. Adm. Code.

(b) *Liquid or solid wastes.* No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply; can cause the emission of dangerous or offensive elements; can overload the existing municipal utilities; or can injure or damage persons or property.

(c) *Water quality protection.*

- (1) No activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated liquid, gaseous, or solid materials of such nature, quantity, obnoxiousness, toxicity, or temperature that might run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm such waters or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness or be harmful to human, animal, plant, or aquatic life.
- (2) In addition, no activity shall withdraw water or discharge any liquid, or solid materials to exceed, or contribute toward the exceeding of, the minimum standards and those other standards and the application of those standards set forth in Ch. NR 102, Wis. Adm. Code.

Sec. 13-5-10 Refuse.

All waste material, debris, refuse or garbage not disposed of through the public sanitary sewerage system shall be kept in an enclosed building or properly contained in a closed container designed for such purposes. The owner of vacant land shall be responsible for keeping such land free of refuse.

CHAPTER 6 AIRPORT ZONING.

Sec. 13-6-1 Purpose, authorizations, and justification.

(a) *Purpose.* It is the purpose of this article is to regulate the use of property, and to regulate and restrict the height of structures and objects of natural growth in the vicinity of the Boyceville Municipal Airport, in order to promote the public health, safety, convenience and general welfare, to increase safety in the use of the airport, and to protect persons and property within the airport affected area. The associated map will outline the area within which basic overlay zoning districts will be applied as a means of maintaining the best interests of the operation of Boyceville Municipal Airport, as well as encouraging the development of compatible lands uses on private property within the area.

(b) *Authorization.* This article, designed to protect the approaches, airspace, and physical areas of the Boyceville Municipal Airport, and to ensure the compatibility of surrounding land uses and development to the greatest extent possible, is adopted pursuant to §§ 62.23 and 114.136, Wis. Stats.

(c) *Jurisdiction.* The jurisdiction of this article shall extend over all lands and waters within 3 miles of the boundaries of the Boyceville Municipal Airport.

Sec. 13-6-2 Definitions.

As used in this chapter, unless the context otherwise requires:

Airport. The Boyceville Municipal Airport owned and operated by the Village of Boyceville, Dunn County, Wisconsin.

Airport Hazard. Any structure, object, whether man-made or natural, or use of land which obstructs the airspace required by FAA for the safe flight of aircraft in landing or taking off at the airport or is otherwise hazardous to such landing and taking off, or to persons using such lands or structures.

Nonconforming Structure. Any structure or tree which does not conform to a regulation prescribed in this section or amendment thereto as of the effective date of such regulation.

Person. Any individual, firm, partnership, corporation, company, association, joint stock association or body politic and includes any trustee, receiver, assignee or other similar representative thereof.

Runway. A level portion of an airport having a surface specially developed and maintained for the landing and takeoff of aircraft.

Structure. Any object constructed or installed by man.

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Trees. Perennial woody plants having a main trunk, one or more perennial stems, branches forming a distinct elevated crown of foliage, and a height of at least 20' at maturity. Shrubs, bushes or plants which do not grow to a height of more than 20' are not included in this definition.

Sec. 13-6-3 Zones.

All zones established by this chapter are as shown on the map dated July 31, 1995, entitled, "Height Limitation Zoning Map, Boyceville Municipal Airport, Dunn County, Wisconsin," which is hereby adopted by reference as part of this chapter.

Sec. 13-6-4 Height limitation zones.

(a) Limitations. Except as otherwise provided in this section, no structure shall be constructed, altered, located or permitted to remain after such construction, alteration or location and no trees planted after the effective date of this chapter shall be allowed to grow to a height more than the height limit indicated on the map referred to in sub. (3) hereof.

(b) Exceptions. The restrictions contained in sub. (a) shall not apply to objects which are less than 35' in height above ground level at the object site with ½ mile of the airport boundary or to structures less than 50' in height above ground within the area beginning ½ mile from the airport boundary or to structures less than 100' in height above the ground within the area beginning one mile from the airport boundary and extending to 3 miles from the airport boundary.

Sec. 13-6-5 Non-conforming structures.

(a) Not Retroactive. The regulations prescribed in 13-6-4 shall not be construed to require the removal, lowering or other change or alteration of any nonconforming structure or otherwise interfere with the continuance of any nonconforming structure, except as otherwise provided in 13-6-7(b).

(b) Removal. This section shall not interfere with the removal of nonconforming structures by purchase or the use of eminent domain.

Sec. 13-6-6 Administration.

The Zoning Administrator shall administer and enforce the regulations prescribed herein. Applications for permits and variances shall be made upon a form furnished by the Village. Applications shall be granted or denied within 45 days of the date of filing of the applications, unless Federal Aviation approval is required. Applications for action by the Zoning Board of Appeals shall be transmitted by the Zoning Administrator to the Board for hearing and decision. There shall be no charge for applications or permits.

Sec. 13-6-7 Permits.

(a) Future Uses. No structures shall hereafter be constructed, erected or installed or be permitted to remain in any zones created by 13-6-3 until the owner or his agent shall have applied in writing for a permit therefor and obtained such permit from the Zoning Administrator, except structures less than 35' in height above the ground and within ½ mile of the airport boundary; structures less than 50' in height above the ground within the area beginning ½ mile from the airport boundary and extending to 1 mile from the airport boundary and structures less than 100' in height above the ground within the area beginning one mile from the airport boundary and extending to 3 miles from the airport boundary. The permit shall be posted in a prominent place on the premises prior to and during the period of construction, erection, installation or establishment. Application for such permit shall indicate the use for which the permit is desired and shall describe and locate the use with sufficient particularity to permit the Zoning Administrator to determine whether such use would conform to the regulations herein prescribed. If such determination is in the affirmative, the Building Inspector shall issue the permit applied for.

(b) Existing Uses. Before any nonconforming structure may be replaced, altered or rebuilt, a permit shall be applied for and secured in the manner prescribed by par. (a) authorizing such change, replacement or repair. No such permit shall be denied if the structure will not become a greater hazard to air navigation than it was on the effective date of this section or than it was when the application for the permit was made.

Sec. 13-6-8 Appeals.

(a) Variances. Upon appeal in special cases, the Zoning Board of Appeals may after investigation and public hearing grant such variance from the terms of this section as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of this section would result in unnecessary hardship and such relief will be substantial justice and be in accord with the spirit of this section and does not create a hazard to the safe, normal operation of aircraft.

(b) Aggrieved Person. Any person aggrieved or affected by any decision or action of the Village made in the administration of this chapter may appeal such a decision or action to the Zoning Board of Appeals.

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(c) *Procedure.* Any appeal taken pursuant to this section shall be in conformity with the procedure established by §62.23(7)(e), Wis. Stats., and this code.

CHAPTER 7: FLOODPLAIN ZONING

Sec. 13-7-1 Introduction.

(a) *Authorization.* This chapter is adopted pursuant to the authorization in §§ 61.35, 62.23 and 87.30, Wis. Stats.

(b) *Finding of fact.* Uncontrolled development and use of the floodplains and rivers of the Village of Boyceville, Wisconsin, would impair the public health, safety, convenience, general welfare and tax base.

(c) *Statement of purpose.* This chapter is intended to regulate floodplain development to:

(d) Protect life, health and property;

- a. Minimize expenditures of public funds for flood control projects;
- b. Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- c. Minimize business interruptions and other economic disruptions;
- d. Minimize damage to public facilities in the floodplain;
- e. Minimize the occurrence of future flood blight areas in the floodplain;
- f. Prevent the victimization of unwary land and home buyers;
- g. Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- h. Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(e) *Title.* This chapter shall be known as the "Floodplain Zoning Ordinance for the Village of Boyceville, Wisconsin."

Sec. 13-7-2 General Provisions.

(a) *Areas to be regulated.* This chapter regulates all areas that would be covered by the regional flood or base flood. (Note: Base flood elevations are derived from the flood profiles in the Flood Insurance Study. Regional flood elevations may be derived from other studies. Areas covered by the base flood are identified as A Zones on the Flood Insurance Rate Map.)

(b) *Official map.* The boundaries of all floodplain districts are designated as floodplains or A Zones on the maps listed below and the revisions in the Village of Baldwin Floodplain Appendix. Any change to the base flood elevations (BFE) in the Flood Insurance Study (FIS) or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file at Village Hall. If more than one map or revision is referenced, the most restrictive information shall apply. The official maps based on the FIS:

- (1) Flood Insurance Rate Map (FIRM), panel # 55033C0162C, 55033C0166, and 55033C0167C dated December 2, 2011, with corresponding profiles that are based on the Flood Insurance Study (FIS) dated December 2, 2011, Volume 55033CV000A as approved by FEMA and DNR.

(c) *Districts.* The regional floodplain areas are divided into three districts as follows:

- (1) The Floodway District (FW) is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters.
- (2) The Flood-Fringe District (FF) is that portion of the floodplain between the regional flood limits and the floodway.
- (3) The General Floodplain District (GFP) is those areas that have been or may be covered by floodwater during the regional flood.

(d) *Locating floodplain boundaries.* Discrepancies between boundaries on the Official Floodplain Zoning Map and actual field conditions shall be resolved using the criteria in Subsection A or B below. If a significant difference exists, the map shall be amended according to 13-7-8. The Zoning Administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether a map amendment is required. The Zoning Administrator shall be responsible for documenting actual predevelopment field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the Zoning Administrator and an applicant over the district boundary line shall be settled according to 13-7-7(e) and the criteria below.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies. (Note: Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must also approve any map amendment pursuant to 13-7-8.)
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the Department.

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(e) Removal of lands from floodplain. Compliance with the provisions of this chapter shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to 13-7-8. [Note: This procedure does not remove the requirements for the mandatory purchase of flood insurance. The property owner must contact FEMA to request a Letter of Map Change (LOMC).]

(f) Compliance with chapter.

- (1) Compliance. Any development or use within the areas regulated by this chapter shall follow the terms of this chapter and other applicable local, state, and federal regulations.
- (2) Municipalities and state agencies regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Wis. Stats., applies.

(g) Abrogation and greater restrictions; interpretation of chapter. This chapter supersedes all the provisions of any municipal zoning ordinance enacted under § 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains. If another ordinance is more restrictive than this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- (1) Abrogation. This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this chapter imposes greater restrictions, the provisions of this chapter shall prevail.
- (2) Interpretation. In their interpretation and application, the provisions of this chapter are the minimum requirements liberally construed in favor of the governing body and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. If a provision of this chapter, required by Ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted considering the standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

(h) Warning and disclaimer of liability. The flood protection standards in this chapter are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This chapter does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damage. Nor does this chapter create liability on the part of, or a cause of action against, the municipality or any officer or employee thereof for any flood damage that may result from reliance on this chapter.

(i) Annexed areas. The Dunn County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the Village of Baldwin for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of Ch. NR 116, Wis. Adm. Code, and the National Flood Insurance Program (NFIP). These annexed lands are described on the municipality's Official Zoning Map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal Zoning Administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(j) General development standards. The community shall review all permit applications to determine whether proposed building sites will be reasonably safe from flooding. If a proposed building site is in a flood-prone area, all new construction and substantial improvements shall be designed or modified and adequately anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with materials resistant to flood damage; be constructed by methods and practices that minimize flood damages; and be constructed with electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Subdivisions shall be reviewed for compliance with the above standards. All subdivision proposals (including manufactured home parks) shall include regional flood elevation and floodway data for any development that meets the subdivision definition of this chapter.

(k) General standards applicable to all floodplain districts.

- (1) Hydraulic and hydrologic analysis.
 - a. Except as allowed in Subsection (1)(c) below, no floodplain development shall:
 1. Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 2. Increase regional flood height due to floodplain storage area lost which equals or exceeds 0.01 foot.

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- b. The Zoning Administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of Subsection (1)(c) are met.
 - c. Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this chapter, the Official Floodplain Zoning Maps, floodway lines and water surface profiles, in accordance with 13-7-8. (Note: This section refers to obstructions or increases in base flood elevations as shown on the officially adopted FIRM or other adopted map. Any such alterations must be reviewed and approved by FEMA and the DNR.)
- (2) Watercourse alterations. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the Zoning Administrator has notified in writing all adjacent municipalities, the Department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood-carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the Zoning Administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

- (3) Chapters 30 and 31, Wis. Stats., development. Development which requires a permit from the Department under Chapters 30 and 31, Wis. Stats., such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFEs established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or this chapter are made according to 13-7-8.
- (4) Public or private campgrounds. Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:
- a. The campground is approved by the Department of Health and Family Services.
 - b. A land use permit for the campground is issued by the Zoning Administrator.
 - c. The character of the river system and the elevation of the campground are such that a 72 hour warning of an impending flood can be given to all campground occupants.
 - d. There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all people in the campground. This procedure shall include a written agreement between the campground owner and the Village which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
 - e. This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated to remain in compliance with all applicable regulations, including those of the State Department of Health Services and all other applicable regulations.
 - f. Only camping units are allowed.
 - g. The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
 - h. All camping units that remain on site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
 - i. The Village shall monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section.
 - j. All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either 13-7-3 or 13-7-4 for the floodplain district in which the structure is located.
 - k. The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
 - l. All service facilities, including but not limited to refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells, shall be properly anchored and placed at or floodproofed to the flood protection elevation.

Sec. 13-7-3 Floodway District (FW)

(a) *Applicability.* This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to 13-7-5(d).

(b) *Permitted uses.* The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if they are not prohibited by any other ordinance, they meet the standards in sub. (c) and (d), and all permits or certificates have been issued according to 13-7-7(b):

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- (1) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
- (2) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
- (3) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of sub. (c)(4).
- (4) Uses or structures accessory to open space uses or classified as historic structures that comply with sub. (c) and (d).
- (5) Extraction of sand, gravel or other materials that comply with sub. (c)(4).
- (6) Functionally water-dependent uses, such as docks, piers or wharves, dams, flowage areas, culverts, navigational aids and river crossings of transmission lines, and pipelines that comply with Chapters 30 and 31, Wis. Stats.
- (7) Public utilities, streets and bridges that comply with sub. (c)(3).

(c) *Standards for development in floodway areas.*

- (1) General requirements.
 - a. Any development in floodway areas shall comply with 13-7-2 and have a low flood damage potential.
 - b. Applicants shall provide the following data to determine the effects of the proposal according to 13-7-2(k)(1):
 1. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 2. An analysis calculating the effects of this proposal on regional flood height.
 - c. The Zoning Administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for Subsection b(2) above.
- (2) Structures. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:
 - a. The structure is not designed for human habitation and does not have a high flood damage potential;
 - b. It must be anchored to resist flotation, collapse, and lateral movement;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.
- (3) Public utilities, streets and bridges. Public utilities, streets and bridges may be allowed by permit, if:
 - a. Adequate floodproofing measures are provided to the flood protection elevation; and
 - b. Construction meets the development standards of 13-7-2(k)(1).
- (4) Fills or deposition of materials. Fills or deposition of materials may be allowed by permit, if:
 - a. The requirements of 13-7-2(k)(1) are met;
 - b. No material is deposited in the navigable channel unless a permit is issued by the Department pursuant to Ch. 30, Wis. Stats., and a permit pursuant to Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344, has been issued, if applicable, and the other requirements of this section are met;
 - c. The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
 - d. The fill is not classified as a solid or hazardous material.

(d) *Prohibited uses.* All uses not listed as permitted uses in sub. (b) are prohibited, including the following uses:

- (1) Habitable structures, structures with high flood damage potential, or those not associated with permanent open space uses.
- (2) Storing materials that are buoyant, flammable, explosive, or injurious to property, water quality, or human, animal, plant, fish or other aquatic life.
- (3) Uses not in harmony with or detrimental to uses permitted in the adjoining districts.
- (4) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and Department-approved campgrounds that meet the applicable provisions of local ordinances and Ch. SPS 383, Wis. Adm. Code.
- (5) Any public or private wells which are used to obtain potable water, except those for recreational areas that meet the requirements of local ordinances and Chapters NR 811 and NR 812, Wis. Adm. Code.
- (6) Any solid or hazardous waste disposal sites.
- (7) Any wastewater treatment ponds or facilities, except those permitted under § NR 110.15(3)(b), Wis. Adm. Code.
- (8) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway which complies with the regulations for the floodplain area occupied.

Sec. 13-7-4 Flood-Fringe District (FF)

(a) *Applicability.* This article applies to all flood-fringe areas shown on the floodplain zoning maps and those identified pursuant to 13-7-5(d).

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(b) *Permitted uses.* Any structure, land use, or development is allowed in the flood-fringe district if the standards in sub. (c) are met, the use is not prohibited by this chapter or any other ordinance or regulation and all permits or certificates specified in 13-7-7(b) have been issued.

(c) *Standards for development in flood-fringe areas.*

(1) Standards. 13-7-2(k)(1) shall apply in addition to the following requirements according to the use requested.

(2) Residential uses. Any habitable structure, including a manufactured home, which is to be erected, constructed, reconstructed, altered, or moved into the flood-fringe area shall meet or exceed the following standards:

- a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The Department may authorize other floodproofing measures if the elevations of existing streets or sewer lines make compliance with the fill standards impractical.
- b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.
- c. Contiguous dry land access shall be provided from a structure to land outside of the floodplain, except as provided in sub. (2)d.
- d. In developments where existing street or sewer line elevations make compliance with sub. (2)c impractical, the Village may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 1. The Village has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 2. The Village has a natural disaster plan approved by Wisconsin Emergency Management and the Department.

(d) *Accessory structures or uses.*

(1) Except as provided in sub. (1)a, an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.

(2) An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions 13-7-3(c) and sub. (g) below.

(e) *Commercial uses.* Any commercial structure which is erected, altered or moved into the flood-fringe area shall meet the requirements of sub. (c). Subject to the requirements of sub. (g), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(f) *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is erected, altered or moved into the flood-fringe area shall be protected to the flood protection elevation using fill, levees, flood walls, or other floodproofing measures in 13-7-7(g). Subject to the requirements of sub. (g), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(g) *Storage of materials.* Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with 13-7-7(f). Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.

(h) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans and:

- (1) When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such facilities may only be permitted if they are floodproofed in compliance with 13-7-7(g) to the flood protection elevation.
- (2) Minor roads or nonessential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(i) *Sewage systems.* All on-site sewage disposal systems shall be floodproofed, pursuant to 13-7-7(g), to the flood protection elevation and shall meet the provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.

(j) *Wells.* All wells shall be floodproofed, pursuant to 13-7-7(g), to the flood protection elevation and shall meet the provisions of Chapters NR 811 and NR 812, Wis. Adm. Code.

(k) *Solid waste disposal sites.* Disposal of solid or hazardous waste is prohibited in flood-fringe areas.

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(l) *Deposition of materials.* Any deposited material must meet all the provisions of this chapter.

(m) *Manufactured homes.*

- (1) Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
- (2) In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - a. Have the lowest floor elevated to the flood protection elevation; and
 - b. Be anchored so they do not float, collapse or move laterally during a flood.
- (3) Outside existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the flood-fringe in sub. (c).

(n) *Mobile recreational vehicles.* All mobile recreational vehicles that are on site for 180 consecutive days or more or are not fully licensed and ready for highway use shall meet the elevation and anchoring requirements in sub. (m)(2) and (3). A mobile recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect utilities and security devices and has no permanently attached additions.

Sec. 13-7-5 General Floodplain District (GFP)

(a) *Applicability.* The provisions for this district shall apply to all floodplains for which flood profiles are not available or where flood profiles are available but floodways have not been delineated. Floodway and flood-fringe districts shall be delineated when adequate data is available.

(b) *Permitted uses.* Pursuant to sub. (d), it shall be determined whether the proposed use is located within a floodway or flood-fringe area. Those uses permitted in floodway (13-7-3) and flood-fringe areas (13-7-4) are allowed within the general floodplain district, according to the standards of sub. (c), provided that all permits or certificates required under 13-7-7(b) have been issued.

(c) *Standards for development in general floodplain district.* 13-7-3 applies to flood areas, 13-7-4 applied to flood-fringe areas. The rest of this chapter applies to either district.

(d) *Determining floodway and flood-fringe limits.* Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures.
- (2) Require the applicant to furnish any of the following information deemed necessary by the Department to evaluate the effects of the proposal upon flood height and flood flows and regional flood elevation and to determine floodway boundaries:
 - a. A typical valley cross-section showing the stream channel, the floodplain adjoining each side of the channel, the cross-sectional area to be occupied by the proposed development, and all historic high water information.
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types; and other pertinent information.
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream.
 - d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in sub. (1) and (2) to the Department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of 13-7-7(c) apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

Sec. 13-7-6 Non-conforming uses.

(a) *General.*

- (1) If these standards conform with § 62.23(7)(h), Wis. Stats., they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this chapter or any amendment thereto.

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- (2) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this chapter may continue subject to the following conditions:
- a. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this chapter. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck to provide safe ingress and egress to the principal structure.
 - b. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this chapter.
 - c. The municipality shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.
 - d. No modification or addition to any nonconforming structure or any structure with a nonconforming use which over the life of the structure would equal or exceed 50% of its present equalized assessed value shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with 13-7-3 (c)2. The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this subsection.
 - e. Damaged structures.
 1. Except as provided in sub. (2), if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
 2. For nonconforming buildings that are damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such nonconforming building may be permitted to restore it after the non-flood disaster, provided that the nonconforming building will meet all the minimum requirements under applicable FEMA regulations (44 CFR 60), or the regulations promulgated thereunder.
 - f. A nonconforming historic structure may be altered if the alteration does not preclude the structure's continued designation as a historic structure, the alteration will comply with 13-7-3(c), flood-resistant materials are used, and construction practices and floodproofing methods that comply with 13-7-7(f) are used.

(b) *Floodway areas.*

- (1) Modification or addition. No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
 - a. Has been granted a permit or variance which meets all ordinance requirements.
 - b. Meets the requirements of sub. (a).
 - c. Will not increase the obstruction to flood flows or regional flood height.
- (2) Any addition to the existing structure shall be floodproofed, pursuant to 13-7-7(f), by means other than the use of fill, to the flood protection elevation.
- (3) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking or limited storage.
- (4) No new on-site sewage disposal system, or addition to an existing on-site sewage disposal system, except where an addition has been ordered by a government agency to correct a hazard to public health, shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a

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floodway area shall meet the applicable requirements of all municipal ordinances and Ch. SPS 383, Wis. Adm. Code.

- (5) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and Chapters NR 811 and NR 812, Wis. Adm. Code.

(c) *Flood-fringe areas.*

- (1) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the municipality, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in 13-7-3, except where sub. (2) is applicable.
- (2) Where compliance with the provisions of sub. (1) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Zoning Board of Appeals, using the procedures established in 13-7-7(e), may grant a variance from those provisions of sub. (1) for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - a. No floor is allowed below the regional flood elevation for residential or commercial structures;
 - b. Human lives are not endangered;
 - c. Public facilities, such as water or sewer, will not be installed;
 - d. Flood depths will not exceed two feet;
 - e. Flood velocities will not exceed two feet per second; and
 - f. The structure will not be used for storage of materials as described in 13-7-3.
- (3) If neither the provisions of sub. (1) or (2) above can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the flood-fringe, if the addition:
 - a. Meets all other regulations and will be granted by permit or variance;
 - b. Does not exceed 60 square feet in area; and
 - c. In combination with other previous modifications or additions to the building, does not equal or exceed 50% of the present equalized assessed value of the building.
- (4) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system, shall meet all the applicable provisions of all local ordinances and Ch. SPS 383, Wis. Adm. Code.
- (5) All new wells, or additions to, replacement, repair or maintenance of a well, shall meet the applicable provisions of this chapter and Chapters NR 811 and NR 812, Wis. Adm. Code.

Sec. 13-7-7 Administration.

(a) *Zoning Administrator.* The Zoning Administrator is authorized to administer this chapter and shall have the following duties and powers:

- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and assure that the regional flood elevation for the proposed development is shown on all permit applications.
- (2) Issue permits and inspect properties for compliance with provisions of this chapter and issue certificates of compliance where appropriate.
- (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
- (4) Keep records of all official actions such as:
 - a. All permits issued, inspections made, and work approved.
 - b. Documentation of certified lowest floor and regional flood elevations for floodplain development.
 - c. Records of water surface profiles, floodplain zoning maps and ordinances, and nonconforming uses and structures, including changes, appeals, variances and amendments.
 - d. All substantial damage assessment reports for floodplain structures.
- (5) Submit copies of the following items to the Department regional office:
 - a. Within 10 days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments.
 - b. Copies of any case-by-case analyses and any other information required by the Department, including an annual summary of the number and types of floodplain zoning actions taken.
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this chapter to the Police Department and Village Attorney for prosecution. Copies of the reports shall also be sent to the Department regional office.
- (7) Submit copies of text and map amendments and biennial reports to the FEMA regional office.

(b) *Administrative procedures.*

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- (1) Land use permit. A land use permit shall be obtained before any new development or structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated. Application to the Zoning Administrator shall include:
 - a. General information.
 1. Name and address of the applicant, property owner and contractor.
 2. Legal description, proposed use, and whether it is new construction or modification.
 - b. Site development plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:
 1. Location, dimensions, area and elevation of the lot;
 2. Location of the ordinary high-water mark of any abutting navigable waterways;
 3. Location of any structures with distances measured from the lot lines and street center lines;
 4. Location of any existing or proposed on-site sewage systems or private water supply systems;
 5. Location and elevation of existing or future access roads;
 6. Location of floodplain and floodway limits as determined from the Official Floodplain Zoning Maps;
 7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study, either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
 8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether the requirements of 13-7-3 or 13-7-4 are met; and
 9. Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to 13-7-2. This may include any of the information noted in 13-7-3(c).
 - c. Data requirements to analyze developments. The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as "subdivision" is defined in Ch. 236, Wis. Stats., and other proposed developments exceeding five acres in area or where the estimated cost exceeds \$125,000. The applicant shall provide:
 1. An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
 2. A map showing location and details of vehicular access to lands outside the floodplain; and
 3. A surface drainage plan showing how flood damage will be minimized.
 - d. The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.
 - e. Expiration. All permits issued under the authority of this chapter shall expire one year from the date of issuance.
- (2) Certificate of compliance. No land shall be occupied or used and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the Zoning Administrator, except where no permit is required, subject to the following provisions:
 - a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this chapter.
 - b. Application for such certificate shall be concurrent with the application for a permit.
 - c. If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed.
 - d. The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations follow the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of 13-7-7(f).
- (3) Other permits. The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under Section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. § 1344.

(c) *Plan Commission.*

- (1) The Plan Commission shall:
 - a. Oversee the functions of the office of the Zoning Administrator; and
 - b. Review and advise the Village Board on all proposed amendments to this chapter, maps, and text.
- (2) The Plan Commission shall not:
 - a. Grant variances to the terms of this chapter in place of action by the Zoning Board of Appeals; or
 - b. Amend the text or zoning maps in place of official action by the Village Board.

(d) *Zoning Board of Appeals.*

- (1) Statutory authorization. The Zoning Board of Appeals, created under § 62.23(7)(e), Wis. Stats., is hereby authorized or shall be appointed to act for the purposes of this chapter. The Board shall exercise the powers

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conferred by Wisconsin Statutes and adopt rules for the conduct of business. The Zoning Administrator may not be the secretary of the Board.

- (2) Powers and duties. The Zoning Board of Appeals shall:
 - a. Appeals. 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 or administration of this chapter.
 - b. Boundary disputes. Hear and decide disputes concerning the district boundaries shown on the Official Floodplain Zoning Map.
 - c. Variances. Hear and decide, upon appeal, variances from the ordinance standards.
- (3) Appeals to the Board. Appeals to the Board may be taken by any person aggrieved, or by any officer or department of the municipality affected by any decision of the Zoning Administrator or other administrative officer. Such appeals shall be taken within 30 days, unless otherwise provided by the rules of the Board, by filing with the official whose decision is in question, and with the Board, a notice of appeal specifying the reasons for the appeal. The official whose decision is in question shall transmit to the Board all records regarding the matter appealed.
- (4) Notice and hearing for appeals including variances.
 - a. Notice. The Board shall:
 1. Fix a reasonable time for the hearing;
 2. Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing;
 3. Assure that notice shall be mailed to the parties in interest and the Department regional office at least 10 days in advance of the hearing.
 - b. Hearing. Any party may appear in person or by an agent. The Board shall:
 1. Resolve boundary disputes according to sub. c.
 2. Decide variance applications according to sub. d.
 3. Decide appeals of permit denials according to 13-7-7(f).
 - c. Decision. The final decision regarding the appeal or variance application shall:
 1. Be made within a reasonable time.
 2. Be sent to the Department regional office within 10 days of the decision.
 3. Be a written determination signed by the chairperson or secretary of the Board.
 4. State the specific facts which are the basis for the Board's decision.
 5. Either affirm, reverse, vary or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or grant or deny the variance application.
 6. Include the reasons for granting an appeal, describing the hardship demonstrated by the applicant in the case of a variance, clearly stated in the recorded minutes of the Board proceedings.
 - d. Boundary disputes. The following procedure shall be used by the Board in hearing disputes concerning floodplain district boundaries:
 1. If a floodplain district boundary is established by approximate or detailed floodplain studies, the flood elevations or profiles shall prevail in locating the boundary. If none exist, other evidence may be examined.
 2. In all cases, the person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board.
 3. If the boundary is incorrectly mapped, the Board should inform the Plan Commission or the person contesting the boundary location to petition the governing body for a map amendment according to 13-7-8.
 - e. Variance.
 1. The Board may, upon appeal, grant a variance from the standards of this chapter if an applicant convincingly demonstrates that:
 - I. Literal enforcement of the ordinance provisions will cause unnecessary hardship;
 - II. The hardship is due to adoption of the floodplain ordinance and unique property conditions, not common to adjacent lots or premises. In such case, the ordinance or map must be amended;
 - III. The variance is not contrary to the public interest; and
 - IV. The variance is consistent with the purpose of this chapter.
 2. In addition to the criteria in sub. e.1, to qualify for a variance under FEMA regulations, the following criteria must be met:
 - I. The variance may not cause any increase in the regional flood elevation.
 - II. Variances can only be granted for lots that are less than 1/2 acre and are contiguous to existing structures constructed below the RFE.
 - III. Variances shall only be granted upon a showing of good and sufficient cause, shall be the minimum relief necessary, shall not cause increased risks to public safety or nuisances, shall not increase costs for rescue and relief efforts and shall not be contrary to the purpose of this chapter.
 3. A variance shall not:
 - I. Grant, extend or increase any use prohibited in the zoning district.
 - II. Be granted for a hardship based solely on an economic gain or loss.
 - III. Be granted for a hardship which is self-created.

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- IV. Damage the rights or property values of other people in the area.
 - V. Allow actions without the amendments to this chapter or map(s) required in 13-7-8.
 - VI. Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- f. When a floodplain variance is granted, the Board shall notify the applicant in writing that it may increase flood insurance premiums and risks to life and property. A copy shall be maintained with the variance record.

(e) *Appeal of permit denials.*

- (1) The Zoning Board of Appeals shall review all data related to the appeal. This may include:
- a. Permit application data listed in sub. (c).
 - b. Floodway/flood-fringe determination data in 13-7-5(d).
 - c. Data listed in 13-7-3(c) where the applicant has not submitted this information to the Zoning Administrator.
 - d. Other data submitted with the application or submitted to the Board with the appeal.
- (2) For appeals of all denied permits, the Board shall:
- a. Follow the procedures of sub. (d);
 - b. Consider Plan Commission recommendations; and
 - c. Either uphold the denial or grant the appeal.
- (3) For appeals concerning increases in regional flood elevation, the Board shall:
- a. Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases equal to or greater than 0.01 foot may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners.
 - b. Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase equal to or greater than 0.01 foot, provided that no other reasons for denial exist.

(g) *Floodproofing.*

- (1) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.
- (2) Floodproofing measures shall be designed to:
- a. Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - b. Protect structures to the flood protection elevation;
 - c. Anchor structures to foundations to resist flotation and lateral movement; and
 - d. Ensure that structural walls and floors are watertight to the flood protection elevation and the interior remains completely dry during flooding without human intervention.
- (3) Floodproofing measures could include:
- a. Reinforcing walls and floors to resist rupture or collapse caused by water pressure or floating debris
 - b. Adding mass or weight to prevent flotation.
 - c. Placing essential utilities above the flood protection elevation.
 - d. Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures.
 - e. Constructing water supply wells and waste treatment systems to prevent the entry of floodwaters.
 - f. Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(h) *Public information.*

- (1) Place marks on structures to show the depth of inundation during the regional flood.
- (2) All maps, engineering data and regulations shall be available and widely distributed.
- (3) All real estate transfers should show what floodplain zoning district any real property is in.

Sec. 13-7-8 Amendments.

(a) *General.* The Village Board may change or supplement the floodplain zoning district boundaries and this chapter in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the Official Floodplain Zoning Map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and Floodplain Zoning Maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by § NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality.
- (6) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the flood fringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA. (Note: Consult the FEMA website, www.fema.gov, for the map change fee schedule.)

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(b) Amendment procedures. Ordinance amendments may be made upon petition of any interested party according to the provisions of § 62.23, Wis. Stats. Such petitions shall include all necessary data required by 13-7-5(d) and 13-7-7(c)1.

- (1) The proposed amendment shall be referred to the Plan Commission for a public hearing and recommendation to the Village Board. The amendment and notice of public hearing shall be submitted to the Department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of § 62.23, Wis. Stats.
- (2) No amendments shall become effective until reviewed and approved by the Department.
- (3) All people petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all adversely affected property owners and notify local units of government before the amendment can be approved by the Village Board.
- (4) For amendments in areas with no water surface profiles, the Plan Commission or Board shall consider data submitted by the Department, the Zoning Administrator's visual on-site inspections and other available information.

Sec. 13-8-9 Violations.

Violators are subject to the general penalties set forth in sec. 1-1-6 of this Code. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the Village, the state, or any citizen thereof pursuant to § 87.30, Wis. Stats.

Sec. 13-8-10 Definitions.

(a) Unless specifically defined, words and phrases in this chapter shall have their common law meaning and shall be applied in accordance with their common usage. Words used in the present tense include the future, the singular number includes the plural, and the plural number includes the singular. The word "may" is permissive; "shall" is mandatory and is not discretionary.

(b) As used in this chapter, the following terms shall have the meanings indicated:

Accessory structure or use: A facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

A Zones: Those areas shown on the Official Floodplain Zoning Map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

Base flood: The flood having a one-percent chance of being equaled or exceed in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

Basement: Any enclosed area of a building having its floor subgrade, i.e., below ground level, on all sides.

Building: See "structure."

Bulkhead line: A geographic line along a reach of navigable water that has been adopted by a municipal ordinance and approved by the Department pursuant to § 30.11, Wis. Stats., and which allows limited filling between this bulkhead line and the original ordinary high-water mark, except where such filling is prohibited by the floodway provisions of this chapter.

Campground: Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is advertised or represented as a camping area.
Camping unit: Any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck, tent or other mobile recreational vehicle.

Certificate of compliance: A certification that the construction and the use of land or a building, the elevation of fill or the lowest floor of a structure follows all the provisions of this chapter.

Channel: A natural or artificial watercourse with a definite bed and banks to confine and conduct normal flow of water.
Crawlway or crawlspace: An enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

Deck: An unenclosed exterior structure that has no roof or sides but has a permeable floor which allows the infiltration of precipitation.

Department: The Wisconsin Department of Natural Resources.

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Development: Any artificial change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or alterations to buildings, structures or accessory structures; the repair of any damaged structure or the improvement or renovation of any structure, regardless of percentage of damage or improvement; the placement of buildings or structures; subdivision layout and site preparation; mining, dredging, filling, grading, paving, excavation or drilling operations; the storage, deposition or extraction of materials or equipment; and the installation, repair or removal of public or private sewage disposal systems or water supply facilities.

Dry land access: A vehicular access route which is above the regional flood elevation and which connects land located in the floodplain to land outside the floodplain, such as a road with its surface above regional flood elevation and wide enough for wheeled rescue and relief vehicles.

Encroachment: Any fill, structure, equipment, building, use or development in the floodway.

Existing manufactured home park or subdivision: A parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this chapter. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

Expansion to existing mobile/manufactured home park: The preparation of additional sites by the construction of facilities for servicing the lots on which the manufactured homes are to be affixed. This includes installation of utilities, construction of streets and either final site grading or the pouring of concrete pads.

Federal Emergency Management Agency (FEMA): The federal agency that administers the National Flood Insurance Program.

Flood frequency: The probability of a flood occurrence which is determined from statistical analyses. The frequency of a particular flood event is usually expressed as occurring, on average, once in a specified number of years or as a percent chance of occurring in any given year.

Flood-fringe: That portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

Flood hazard boundary map: A map designating approximate flood hazard areas. Flood hazard areas are designated as unnumbered A Zones and do not contain floodway lines or regional flood elevations. This map forms the basis for both the regulatory and insurance aspects of the National Flood Insurance Program (NFIP) until superseded by a Flood Insurance Study and a Flood Insurance Rate Map.

Flood Insurance Rate Map (FIRM): A map of a community on which the Federal Insurance Administration has delineated both special flood hazard areas (the floodplain) and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.

Flood Insurance Study: A technical engineering examination, evaluation, and determination of the local flood hazard areas. It provides maps designating those areas affected by the regional flood and provides both flood insurance rate zones and base flood elevations and may provide floodway lines. The flood hazard areas are designated as numbered and unnumbered A Zones. Flood Insurance Rate Maps that accompany the Flood Insurance Study form the basis for both the regulatory and the insurance aspects of the National Flood Insurance Program.

Flood or flooding: A general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

- (1) The overflow or rise of inland waters;
- (2) The rapid accumulation or runoff of surface waters from any source;
- (3) The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
- (4) The sudden increase caused by an unusually high-water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as a seiche, or by some similarly unusual event.

Floodplain: Land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the flood-fringe and may include other designated floodplain areas for regulatory purposes.

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Floodplain Island: A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain Management: Policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Flood Profile: A graph or a longitudinal profile line showing the relationship of the water surface elevation of a flood event to locations of land surface elevations along a stream or river.

Floodproofing: Any combination of structural provisions, changes or adjustments to properties and structures, water and sanitary facilities and contents of buildings subject to flooding, for the purpose of reducing or eliminating flood damage.

Flood Protection Elevation: An elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see "freeboard.")

Flood Storage: Those floodplain areas where storage of floodwaters has been considered during analysis in reducing the regional flood discharge.

Floodway: The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

Freeboard: A safety factor expressed in terms of a specified number of feet above a calculated flood level. Freeboard compensates for any factors that cause flood heights greater than those calculated, including ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of watershed urbanization, loss of flood storage areas due to development and aggregation of the river or stream bed.

Habitable Structure: Any structure or portion thereof used or designed for human habitation.

Hearing Notice: Publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (7 days) before the hearing is required.

High Flood Damage Potential: Damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Historic Structure: Any structure that is either:

- (1) Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
- (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved state program, as determined by the Secretary of the Interior, or by the Secretary of the Interior in states without approved programs.

Increase In Regional Flood Height: A calculated upward rise in the regional flood elevation, equal to or greater than 0.01 foot, based on a comparison of existing conditions and proposed conditions which is directly attributable to development in the floodplain but not attributable to manipulation of mathematical variables such as roughness factors, expansion and contraction coefficients and discharge.

Land Use: Any nonstructural use made of unimproved or improved real estate. (Also see "development.")

Manufactured Home: A structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a mobile recreational vehicle.

Mobile Recreational Vehicle: A vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent

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dwelling but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured homes that are towed or carried onto a parcel of land, but do not remain capable of being towed or carried, including park model homes, do not fall within the definition of "mobile recreational vehicle."

NAVD or North American Vertical Datum: Elevations referenced to mean sea level datum, 1988 adjustment.

New Construction: For floodplain management purposes, "new construction" means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this community and includes any subsequent improvements to such structures. To determine flood insurance rates, it includes any structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures.

NGVD or National Geodetic Vertical Datum: Elevations referenced to mean sea level datum, 1929 adjustment.

Non-Conforming Structure: An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the flood-fringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

Non-Conforming Use: An existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies (such as a residence in the floodway).

Obstruction To Flow: Any development which blocks the conveyance of floodwaters such that this development alone or together with any future development will cause an increase in regional flood height.

Open Space Use: Those uses having relatively low flood damage potential and not involving structures.

Ordinary High-Water Mark: The point on the bank or shore up to which the presence and action of surface water are so continuous as to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.

Private Sewage System: A sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the State Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

Public Utilities: Those utilities using underground or overhead transmission lines such as electric, telephone and telegraph, and distribution and collection systems such as water, sanitary sewer and storm sewer.

Reasonably Safe From Flooding: Base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and any subsurface waters related to the base flood will not damage existing or proposed buildings.

Regional Flood: A flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one-percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

Start Of Construction: The date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether that alteration affects the external dimensions of the building.

Structure: Any man-made object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lakebed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.

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Subdivision: Has the meaning given in § 236.02(12), Wis. Stats.

Substantial Damage: Damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50% of the equalized assessed value of the structure before the damage occurred.

Unnecessary Hardship: Where special conditions affecting a particular property, which were not self-created, have made strict conformity with restrictions governing areas, setbacks, frontage, height or density unnecessarily burdensome or unreasonable considering the purposes of this chapter.

Variance: An authorization by the Zoning Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in this chapter.

Violation: The failure of a structure or other development to be fully compliant with this chapter. A structure or other development without required permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations is presumed to be in violation until such time as that documentation is provided.

Watershed: The entire region contributing runoff or surface water to a watercourse or body of water.

Water Surface Profile: A graphical representation showing the elevation of the water surface of a watercourse for each position along a reach of river or stream at a certain flood flow. A water surface profile of the regional flood is used in regulating floodplain areas.

Well: An excavation opening in the ground made by digging, boring, drilling, driving or other methods to obtain groundwater regardless of its intended use.

CHAPTER 8: SHORELAND-WETLAND ZONING

Sec. 7-8-1 Introduction.

(a) *Statutory authorization.* This chapter is adopted pursuant to the authorization in §§ 61.35, 61.351, 87.30 and 281.31, Wis. Stats.

(b) *Findings of fact.* Uncontrolled use of the shoreland-wetlands and the pollution of the navigable waters of the Village of Boyceville would adversely affect the public health, safety, convenience and general welfare and impair the tax base. The Legislature of Wisconsin has delegated responsibility to all municipalities to:

- (1) Promote the public health, safety, convenience and general welfare;
- (2) Maintain the storm- and floodwater storage capacity of wetlands;
- (3) Prevent and control water pollution by preserving wetlands which filter or store sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (4) Protect fish, their spawning grounds, other aquatic life and wildlife by preserving wetlands and other aquatic habitat;
- (5) Prohibit certain uses detrimental to the shoreland-wetland area; and
- (6) Preserve shore cover and natural beauty by restricting the removal of natural shoreland cover and controlling shoreland-wetland excavation, filling and other earthmoving activities.

(c) *Title.* This chapter shall be known as the "Shoreland-Wetland Zoning Ordinance for the Village of Boyceville, Wisconsin."

Sec. 7-8-2 General Provisions.

(a) *Compliance.* The use of wetlands and the alteration of wetlands within the shoreland area of the Village shall be in full compliance with the terms of this chapter and other applicable local, state or federal regulations. All permitted development shall require the issuance of a zoning permit unless otherwise expressly excluded by a provision of this chapter.

(b) *Municipalities and state agencies regulated.* Unless specifically exempted by law, all cities, villages, towns and counties are required to comply with this chapter and obtain all necessary permits. State agencies are required to comply if § 13.48(13), Wis. Stats., applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the Wisconsin Department of Transportation are exempt when § 30.2022, Wis. Stats., applies.

(c) *Abrogation and greater restrictions.* This chapter supersedes all the provisions of any municipal zoning ordinance enacted under § 61.35, 62.23 or 87.30, Wis. Stats., which relate to floodplains and shoreland-wetlands, except that where another municipal zoning ordinance is more restrictive than the provisions contained in this chapter, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

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This chapter is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. However, where this chapter imposes greater restrictions, the provisions of this chapter shall prevail.

(d) *Interpretation.* In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the municipality and shall not be deemed a limitation or repeal of any other powers granted by the Wisconsin Statutes. Where a provision of this chapter is required by a standard in Ch. NR 117, Wis. Adm. Code, and where the chapter provision is unclear, the provision shall be interpreted considering the Chapter NR 117 standards in effect on the date of the adoption of this chapter or in effect on the date of the most recent text amendment to this chapter.

(e) *Annexed areas.* The shoreland zoning provisions of Dunn County in effect on the date of annexation remain in effect administered by the Village for all areas annexed by the Village after May 7, 1982. These annexed lands are described on the Village's Official Zoning Map. The Dunn County shoreland zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Zoning Administrator.

Sec. 7-8-3 Shoreland-Wetland Zoning District.

(a) *Official Shoreland-Wetland Zoning Maps.* The following maps are hereby adopted and made a part of this chapter and are on file in Village Hall:

- (1) Wisconsin Wetland Inventory Map stamped "Final" on February 14, 1986.
- (2) United States Geological Survey Quadrangle Maps.
- (3) Floodplain zoning maps as provided in Chapter 7
- (4) The Village of Boyceville Zoning Map

(b) *District boundaries.*

- (1) *Boundaries.* The Shoreland-Wetland Zoning District includes all wetlands in the Village which are five acres or more and are shown on the final Wetland Inventory Map which are:
 - a. Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter.
 - b. Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this chapter in. Floodplain zoning maps shall be used to determine the extent of floodplain areas in the Village.
- (2) *Determinations of navigability.* Determinations of navigability and ordinary high-water mark shall initially be made by the Zoning Administrator. When questions arise, the Zoning Administrator shall contact the appropriate district office of the Department for the final determination of navigability or ordinary high-water mark.
- (3) *Discrepancies.* When an apparent discrepancy exists between the Shoreland-Wetland District boundary shown on the Official Shoreland-Wetland Zoning Maps and the actual field conditions at the time the maps were adopted, the Zoning Administrator shall contact the appropriate district office of the Department to determine if the shoreland-wetland district boundary as mapped is in error. If the Department staff concurs with the Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Zoning Administrator shall have the authority to immediately grant or deny a zoning or building permit in accordance with the regulations applicable to the correct zoning district. To correct wetland mapping errors, the Zoning Administrator shall be responsible for initiating a Shoreland-Wetland Map amendment within a reasonable period.

(c) *Permitted uses.* The following uses are permitted subject to the provisions of Chapters 30 and 31, Wis. Stats., and the provisions of other local, state and federal laws, if applicable:

- (1) *No wetland alteration.* Activities and uses which do not require the issuance of a zoning permit, provided that no wetland alteration occurs:
 - a. Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
 - b. The 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;
 - c. The practice of silviculture, including the planting, thinning and harvesting of timber;
 - d. The pasturing of livestock;
 - e. The cultivation of agricultural crops; and
 - f. The construction and maintenance of duck blinds.
- (2) *Wetland alteration restricted.* Uses which do not require the issuance of a zoning permit and which may involve wetland alterations only to the extent specifically provided below:

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- a. The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;
 - b. The cultivation of cranberries, including limited wetland alterations, necessary for the purpose of growing and harvesting cranberries;
 - c. The maintenance and repair of existing drainage to restore preexisting levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible, and that dredged spoil is placed on existing spoil banks where possible;
 - d. The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
 - e. The construction and maintenance of piers, docks and walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;
 - f. The installation and maintenance of sealed tiles for the purpose of draining lands outside the Shoreland-Wetland Zoning District, provided that such installation or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the shoreland-wetland listed in 13-8-4(h) of this chapter; and
 - g. The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (3) Permit required. Uses which are allowed upon the issuance of a simple zoning permit and which may include wetland alterations only to the extent specifically provided below:
- a. The construction and maintenance of roads which are necessary for the continuity of the Village street system, the provision of essential utility and emergency services or to provide access to uses permitted in this section, provided that:
 1. The road cannot, as a practical matter, be located outside the wetland;
 2. The road is designed and constructed to minimize the adverse impact upon the natural functions of the wetland listed in 13-8-4(h) of this chapter;
 3. The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
 4. Road construction activities are carried out in the immediate area of the roadbed only; and
 5. Any wetland alteration must be necessary for the construction or maintenance of the road.
 - b. The construction and maintenance of non-residential buildings, provided that:
 1. The building is used solely in conjunction with a use permitted in the Shoreland-Wetland District or for the raising of waterfowl, minnows or other wetland or aquatic animals;
 2. The building cannot, as a practical matter, be located outside the wetland;
 3. The building does not exceed 500 square feet in floor area; and
 4. Only limited filling and excavation necessary to provide structural support for the building is allowed.
 - c. The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, wildlife preserves and public boat-launching ramps, provided that:
 - d. Any private development allowed under this subsection shall be used exclusively for the permitted purpose;
 1. Only limited filling and excavating necessary for the development of public boat-launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;
 2. The construction and maintenance of roads necessary for the uses permitted under this subsection are allowed only where such construction and maintenance meet the criteria in sub. a of this section; and
 3. Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms, and wildlife preserves shall be for the purpose of improving wildlife habitat or to enhance wetland values.
 - e. The construction and maintenance of electric and telephone transmission lines, gas and water distribution lines, and sewage collection lines, and related facilities and the construction and maintenance of railroad lines, provided that:
 1. The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;
 2. Only limited filling or excavating necessary for such construction or maintenance is allowed; and
 3. Such construction or maintenance is done in a manner designed to minimize the adverse impact upon the natural functions of the wetland listed in 13-8-4(h) of this chapter.

(d) *Prohibited uses.*

- (1) Rezoning required. Any use not listed in sub. (c) of this section is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this chapter in accordance with 13-8-4(i) of this chapter.
- (2) Other prohibited uses. The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

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(e) *Non-conforming structures and uses.* The lawful use of a building, structure or property which existed at the time this chapter, or an applicable amendment to this chapter, took effect and which is not in conformity with the provisions of this chapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions:

- (1) Reconstruction and repair. The shoreland-wetland provisions of this chapter authorized by § 61.351, Wis. Stats., shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to § 62.23(7)(h), Wis. Stats., which limits total lifetime structural repairs and alterations to 50% of current fair market value.
- (2) Non-conforming use discontinued. If a non-conforming use or the use of a non-conforming structure is discontinued for 12 consecutive months, any future use of the building, structure or property shall conform to the appropriate provisions of this chapter.
- (3) Non-conforming use without a structure. Any legal non-conforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this chapter adopted under § 62.231 or 61.351, Wis. Stats., may be continued although such use does not conform to the provisions of this chapter. However, such nonconforming use may not be extended.
- (4) Boathouses. The maintenance and repair of non-conforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of § 30.121, Wis. Stats.
- (5) Nuisances. Uses which are nuisances under common law shall not be permitted to continue as non-conforming uses.

Sec. 13-8-4 Administrative Provisions.

(a) *Zoning Administrator.* The Village Zoning Administrator is appointed Zoning Administrator for the purpose of administering and enforcing this chapter. The Zoning Administrator shall have the following duties and powers:

- (1) Advise applicants as to the provisions of this chapter and assist them in preparing permit applications and appeal forms.
- (2) Issue permits and inspects properties for compliance with this chapter.
- (3) Keep records of all permits issued, inspections made, work approved and other official actions.
- (4) Have access to any structure or premises between the hours of 8:00 a.m. and 6:00 p.m. for the purpose of performing these duties.
- (5) Submit copies of decisions on variances, conditional use permits, appeals for a map or text interpretation and map or text amendments within 10 days after they are granted or denied to the appropriate district office of the Department.
- (6) Investigate and report violations of this chapter to the appropriate Village officials agency and the District Attorney or Village Attorney.

(b) *Zoning permits.*

- (1) When required. Unless another section of this chapter specifically exempts certain types of development from this requirement, a zoning permit shall be obtained from the Zoning Administrator before any new development, as defined in 13-8-6 of this chapter, or any change in the use of an existing building or structure is initiated.
- (2) Application. An application for a permit shall be made to the Zoning Administrator upon forms furnished by the Village and shall include, for the purpose of proper enforcement of these regulations, the following information:
 - a. General information.
 1. Name, address and telephone number of applicant, property owner and contractor, where applicable.
 2. Legal description of the property and a general description of the proposed use or development.
 3. Whether or not a private water or sewage system is to be installed.
 - b. Site development plan. The site development plan shall be drawn to scale and submitted as a part of the permit application form and shall contain the following information:
 1. Dimensions and area of the lot;
 2. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
 3. Description of any existing or proposed on-site sewage systems or private water supply systems;
 4. Location of the ordinary high-water mark of any abutting navigable waterways;
 5. Boundaries of all wetlands;
 6. Existing and proposed topographic and drainage features and vegetative cover;
 7. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps used to delineate floodplain areas;
 8. Location of existing or future access roads; and
 9. Specifications and dimensions for areas of proposed wetland alteration.

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- c. **Expiration.** All permits issued under the authority of this chapter shall expire 12 months from the date of issuance.

(c) *Certificates of compliance.*

- (1) **Certificates of compliance.** Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Zoning Administrator subject to the following provisions:
 - a. The certificate of compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this chapter.
 - b. Application for such certificate shall be concurrent with the application for a zoning or conditional use permit.
 - c. The certificate of compliance shall be issued within 10 days after notification of the completion of the work specified in the zoning or conditional use permit, provided the building or premises and proposed use thereof conform to all the provisions of this chapter.
- (2) **Temporary certificate.** The Zoning Administrator may issue a temporary certificate of compliance for a building, premises or part thereof pursuant to rules and regulations established by the Village Board.
- (3) **Issued upon written request.** Upon written request from the owner, the Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of adoption of this chapter, certifying after inspection the extent and type of use made of the building or premises and whether such use conforms to the provisions of this chapter.

(d) *Conditional use permits.*

- (1) **Application.** Any use listed as a conditional use in this chapter shall be permitted only after an application has been submitted to the Zoning Administrator and a conditional use permit has been granted by the Planning Commission following the procedures in Chapter 3.
- (2) **Conditions.** Upon consideration of the permit application and the standards applicable to the conditional uses designated in 13-8-3(c), the Planning Commission shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this chapter, as are necessary to further the purposes of this chapter. Such conditions may include specifications for, without limitation because of specific enumeration, type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Planning Commission may require the applicant to furnish, in addition to the information required for a zoning permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this chapter.

(e) *Fees.* The Village Board, through the Fine and Fee Schedule, shall establish fees for the following:

- (1) Zoning permits.
- (2) Public hearings.
- (3) Legal notice publications.
- (4) Conditional use permits.
- (5) Rezoning petitions.
- (6) Certificates of compliances.

(f) *Recording.* Where a zoning permit or conditional use permit is approved, an appropriate record shall be made by the Zoning Administrator of the land use and structures permitted.

(g) *Revocation.* Where the conditions of a zoning permit or conditional use permit are violated, the permit shall be revoked by the Village.

(h) *Zoning Board of Appeals.* The Zoning Board of Appeals shall be appointed and conduct itself pursuant to 2-4-2 and Wis. Stat. 62.34(7)(e).

(1) **Powers and duties.** The Zoning Board of Appeals:

- a. Shall hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement or administration of this chapter.
- b. May authorize, upon appeal, a variance from the dimensional standards of this chapter where an applicant convincingly demonstrates that:
 - 1. Literal enforcement of the terms of this chapter will result in unnecessary hardship for the applicant.
 - 2. The hardship is due to special conditions unique to the property and is not self-created or based solely on economic gain or loss.
 - 3. Such variance is not contrary to the public interest as expressed by the purpose of this chapter.

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4. Such variance will not grant or increase any use of property which is prohibited in the zoning district.
- (2) Appeals to the Board. Appeals to the Zoning Board of Appeals may be taken by any person aggrieved or by an officer, department, board or bureau of the community affected by any order, requirement, decision or determination of the Zoning Administrator or other administrative official. Such appeals shall be taken within a reasonable time, as provided by the rules of the Board, by filing with the official from whom the appeal is taken and with the Zoning Board of Appeals a notice of appeal specifying the reasons. The Zoning Administrator or other official from whom the appeal is taken shall transmit to the Board all the papers constituting the record on which the appeal action was taken.
- (3) Public hearings.
 - a. Before deciding on an appeal, the Zoning Board of Appeals shall, within a reasonable period, hold a public hearing. The Board shall give public notice of the hearing by publishing a Class 2 notice under Ch. 985, Wis. Stats., specifying the date, time and place of the hearing and the matters to come before the Board. At the public hearing, any party may appear in person, by agent or by attorney and present testimony.
 - b. A copy of such notice shall be mailed to the parties in interest and the appropriate district office of the Department at least 10 days prior to all public hearings on issues involving shoreland-wetland zoning.
- (4) Decisions.
 - a. The final disposition of an appeal to the Zoning Board of Appeals shall be in the form of a written decision, made within a reasonable time after the public hearing, signed by the Board chairperson. Such decisions shall state the specific facts which are the basis of the Board's determination and shall either affirm, reverse or modify the order, requirement, decision or determination appealed, in whole or in part, dismiss the appeal for lack of jurisdiction or persecution.
 - b. A copy of such decision shall be mailed to the parties in interest and the appropriate district office of the Department within 10 days after the decision is issued.
- (i) *Amending shoreland-wetland zoning regulations.* The Village Board may alter, supplement or change the district boundaries and the regulations contained in this chapter in accordance with the requirements of § 62.23(7)(d)2, Wis. Stats., Ch. NR 117, Wis. Adm. Code, and the following:
 - (1) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within 5 days of the submission of the proposed amendment to the Plan Commission.
 - (2) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the Plan Commission, and a public hearing shall be held as required by § 62.23(7)(d)2, Wis. Stats. The appropriate district office of the Department shall be provided with written notice of the public hearing at least 20 days prior to such hearing.
 - (3) To ensure that the shoreland protection objectives in § 281.31, Wis. Stats., will be accomplished by the amendment, the Village Board may not rezone a wetland in a Shoreland-Wetland Zoning District, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following:
 - a. Storm and floodwater storage capacity;
 - b. Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
 - c. Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
 - d. Shoreline protection against soil erosion;
 - e. Fish spawning, breeding, nursery or feeding grounds;
 - f. Wildlife habitat; or
 - g. Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.
 - (4) If the district office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in sub. (3) of this section, the Department shall notify the Village of its determination either prior to or during the public hearing held on the proposed amendment.
 - (5) The appropriate district office of the Department shall be provided with:
 - a. A copy of the recommendations and report, if any, of the Plan Commission on the proposed text or map amendment within 10 days after the submission of those recommendations to the Village Board; and
 - b. Written notice of the Village Board's action on the proposed text or map amendment within 10 days after the action is taken.
 - (6) If the Department notifies the Plan Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in sub. (3) of this section, that proposed amendment, if approved by the Village Board, may not become effective until more than 30 days have elapsed since written notice of the Village Board approval was mailed to the Department, as required by sub. (5) of this section. If, within the thirty-day period, the Department notifies the Village Board that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the Village under §§ 62.231(6) and 61.351(6), Wis. Stats., the proposed

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amendment may not become effective until the ordinance adoption procedure under §§ 62.231(6) and 61.351(6), Wis. Stats., is completed or otherwise terminated.

Sec. 13-8-5 Violations.

Any development, building or structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced, or any use or accessory use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, firm, association, or corporation (including building contractors or their agents) shall be deemed a violation. The Zoning Administrator shall refer violations to the Police Department and the Village Attorney, who shall prosecute such violations. Any person, firm, association or corporation who or which violates or refuses to comply with any of the provisions of this chapter shall be subject to a forfeiture as set in 1-1-6. Each day of continued violation shall constitute a separate offense. Every violation of this chapter is a public nuisance and the creation thereof may be enjoined and the maintenance thereof may be abated by action at suit of the Village, the state or any citizen thereof pursuant to § 87.30(2), Wis. Stats.

Sec. 13-8-6 Definitions.

(a) For administering and enforcing this chapter, the terms or words used herein shall be interpreted as follows: words used in the present tense include the future; words in the singular number include the plural number; words in the plural number include the singular number. The word "shall" is mandatory, not permissive. All distances unless otherwise specified shall be measured horizontally.

(b) The following terms used in this chapter shall have the meanings indicated:

Accessory structure or use: A detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principal structure or use to which it is related and which is located on the same lot as that of the principal structure or use.

Boathouse: As defined in § 30.01(1d), Wis. Stats., a structure with one or more walls or sides that has been used for one or more years for the storage of watercraft and associated materials, regardless of the current use of the structure.

Class 2 Public Notice: Publication of a public hearing notice under Ch. 985, Wis. Stats., in a newspaper of circulation in the affected area. Publication is required on two consecutive weeks, the last at least seven days prior to the hearing.

Conditional use: A use which is permitted by this chapter, provided that certain conditions specified in this chapter are met and that a permit is granted by the Zoning Board of Appeals or, where appropriate, the planning agency designated by the municipal governing body.

Department: The Wisconsin Department of Natural Resources.

Development: Any man-made change to improved or unimproved real estate, including, but not limited to, the construction of buildings, structures or accessory structures; the construction of additions or substantial alterations to buildings, structures or accessory structures; the placement of buildings or structures; ditching, lagooning, dredging, filling, grading, paving, excavation or drilling operations; and the deposition or extraction of earthen materials.

Drainage system: One or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

Environmental control facility: Any facility, temporary or permanent, which is reasonably expected to abate, reduce or aid in the prevention, measurement, control or monitoring of noise, air or water pollutants, solid waste and thermal pollution, radiation or other pollutants, including facilities installed principally to supplement or to replace existing property or equipment not meeting or allegedly not meeting acceptable pollution control standards or which are to be supplemented or replaced by other pollution control facilities.

Fixed houseboat: As defined in § 30.01(1r), Wis. Stats., a structure not actually used for navigation which extends beyond the ordinary high-water mark of a navigable waterway and is retained in place either by cables to the shoreline or by anchors or spud poles attached to the bed of the waterway.

Navigable waters: Lake Superior, Lake Michigan, all natural inland lakes within Wisconsin, and all streams, ponds, sloughs, flowages and other waters within the territorial limits of this state, including the Wisconsin portion of boundary waters, which are navigable under the laws of this state. Under § 281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, shoreland ordinances required under §§ 61.351 and 62.231, Wis. Stats., and Ch. NR 117, Wis. Adm. Code, do not apply to lands adjacent to farm drainage ditches if:

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- (1) Such lands are not adjacent to a natural navigable stream or river;
- (2) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (3) Such lands are maintained in nonstructural agricultural use.

Ordinary high-water mark: The point on the bank or shore up to which the presence and action of surface water is so continuous to leave a distinctive mark such as by erosion, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation or other easily recognized characteristic.

Shorelands: Lands within the following distances from the ordinary high-water mark of navigable waters: 1,000 feet from a lake, pond or flowage and 300 feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

Unnecessary hardship: That circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with the restrictions governing area, setbacks, frontage, height or density unnecessarily burdensome or unreasonable considering the purpose of this chapter.

Variance: An authorization granted by the Zoning Board of Appeals to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of this chapter.

Wetland alteration: Any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

Wetlands: Those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative of wet conditions.

CHAPTER 9: HISTORIC PRESERVATION.

Sec. 13-9-1 Declaration of public policy and property.

The Village Board hereby declares as a matter of public policy that the protection, preservation, perpetuation and use of places, areas, buildings, structures and other objects having special historical, community or aesthetic interest or value is a public advantage and is promoted in the interest of the people. The purpose of this chapter is to:

- Safeguard the cultural resources of the Village of Baldwin by preserving sites, structures, landmarks and districts which reflect elements of the Village's cultural, social, economic, political, visual or architectural history.
- Protect and enhance the Village's attractions to visitors and residents, and serve as a support and stimulus to business, industry and tourism.
- Foster civic pride in the beauty and notable achievements of the past.
- Enhance the visual and aesthetic character, diversity and interest of the Village.
- Promote the use and preservation of historic sites, structures, landmarks and districts for the education and general welfare of the people of the Village with respect to the cultural, civic, architectural and historic heritage of the Village.

Sec. 13-9-2 Definitions.

For this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section:

Committee: The Historic Preservation Committee created hereunder which for purposes of this chapter shall be the Plan Commission.

Cultural Resources: Any work of man or nature that is primarily of interest for its historical, archaeological, natural scientific or aesthetic value, including, but not limited to, historic houses and other structures such as barns, schools, kilns, archaeological sites, American Indian burial grounds and earthworks, buildings identified as the work of an architect, developer or master builder whose work has influenced the Village, and structures noteworthy because of their design, detail, materials or craftsmanship, or association with historic persons or events.

Historic District: An area of the Village which contains one or more designated sites, structures or landmarks. The historic district's boundaries shall be shown on the Village Zoning Map.

Historic Site: Any area, place, structure, land or other object which has been duly designated by the Village Board; this includes prehistoric aboriginal sites.

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Landmark: A natural or man-made feature of local or regional interest which is associated with a particular historic or prehistoric event.

Structure: Any man-made building which has special character, historic interest or value as part of the development, heritage or cultural characteristics of the Village.

Sec. 13-9-3 Historic Preservation Committee.

(a) *Inventory of cultural resources.* The Village Board shall direct and empower the Historic Preservation Committee to establish and maintain a continuing inventory of cultural resources in the Village for consideration for placement on the historic register of the Village. Historic sites, structures, landmarks and districts shall be chosen for their eligibility as described under 13-9-4.

(b) *Nomination of properties.* Property nominated by the Historic Preservation Committee to be designated as a historic site, structure, landmark or part of a district shall require a public hearing under the direction of the Village Board. Notice of the public hearing shall be published and mailed to the owners of the proposed property.

(c) *Notice to owners.* The Historic Preservation Committee shall provide full information to the property owners of the civic advantages and responsibilities involved in accepting such a designation. Approval of the property owners shall be obtained as a prerequisite to official designation.

(d) *Restrictive covenant.* The owner of any historic site or structure may, at any time following such designation of this property, enter a restrictive covenant on the subject property after negotiating with the Historic Preservation Committee. The Committee may assist the owner in preparing such a covenant in the interest of preserving historic property. The owner shall record such a covenant in the County Register of Deeds office and shall notify the Village Assessor of such covenant and the conditions thereof.

(e) *Assistance with other registrations.* The Historic Preservation Committee shall provide encouragement, information and assistance to owners of Village-designated historic properties who show interest in seeking nomination to the National Register of Historic Places through the State Historical Society.

(f) *Promotional activities.* The Historic Preservation Committee shall promote interest in the community for designating properties as historic sites, structures, landmarks or as part of a historic district, and assist property owners in submitting qualifications of their properties as historic sites for consideration of such designation.

(g) *Subcommittees.* The Historic Preservation Committee shall have the power to appoint subcommittees from the community and enlist the aid of area historical societies and other organizations for assistance in promoting the policy of the Village in the interest of historic preservation.

(h) *Funding.* As it deems advisable, the Historic Preservation Committee is empowered to solicit and receive funds for the purpose of preservation of landmarks of the Village. Funds for such purposes shall be placed in a special Village account.

Sec. 13-9-4 Criteria for determining eligibility.

In determining the eligibility of any area, site, place, building, structure or district within the Village as a historic landmark, the Historic Preservation Committee shall consider the following factors with respect to eligibility:

- Its character, interest or value as a part of the history or cultural heritage of the Village, state or United States.
- Its association with the persons or events which have made a significant contribution to the cultural heritage.
- Its potential to yield information important in history or prehistory.
- Its embodiment of distinguishing characteristics of an architectural type or style, or element of design, detail, materials or craftsmanship.
- Its unique location or singular physical appearance representing an established and familiar feature of a neighborhood or community of the Village.

Sec. 13-9-5 Register of historic sites, structures, landmarks, and districts.

The Village shall maintain a register of historic sites, structures, landmarks and districts.

Sec. 13-9-6 External alteration for designated property.

The owner of designated properties shall report any planned external alteration, including demolition, to their respective property to the Historic Preservation Committee for review and recommendation. The Historic Preservation Committee will

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base its recommendation according to the guidelines set forth in the Secretary of the Interior's Standards for Rehabilitation.

Sec. 13-9-7 Transfer of historically designated property.

The Village Assessor shall notify the Historic Preservation Committee when the ownership of any historically designated property is transferred. The Historic Preservation Committee shall inform the new owner of the importance of their property and their responsibilities under this chapter.

Sec. 13-9-8 Review of permits.

(a) Notification of every application for building, zoning or demolition permits for properties on the Village register shall be given by the Building Inspector to the Historic Preservation Committee for their review. The Committee shall make a recommendation to the Village Board concerning the proposed permit.

(b) Considering that time is of the essence, the Historic Preservation Committee shall act promptly in its consideration of an application for building, zoning or demolition permits in relation to designated properties. The review and recommendation shall be forwarded to the Village Board within 30 days. The Village Board will vote to decide if the permit will be issued or denied.

(c) The Village Board, in considering the recommendations of the Historic Preservation Committee, shall determine if the work to be performed adversely affects the designated historic property. In determining whether there is such an adverse affect, the Village Board shall consider the following factors:

- (1) Whether the work will significantly alter the appearance of the building or structure to remove features which distinguish the historic site, structure, landmark or district as a significant cultural resource.
- (2) Whether the use of the property will destroy, disturb or endanger a known or suspected archaeological feature.

(d) The Historic Preservation Committee may also recommend to the Village Board variations which are comparable to the proposed changes if the Historic Preservation Committee determines that such variations are necessary to alleviate financial hardship placed upon the owner of the property. The Historic Preservation Committee will be allowed another 30 days to determine such variations. The Committee's recommendation shall be considered by the Village Board before a vote is taken to determine if a building, zoning or demolition permit will be issued.

(e) Nothing contained in this section shall prohibit the construction, alteration or demolition of any improvement on a designated historic property, or in a historic district pursuant to any court judgment to remedy conditions determined to be dangerous to life, health or property. In such case, no approval from the Committee shall be required.

CHAPTER 10: ADMINISTRATION AND ENFORCEMENT

Sec. 13-10-1 General administrative system.

This title contemplates an administrative and enforcement officer titled the "Zoning Administrator" to administer and enforce the same. Certain considerations, particularly regarding granting of permitted conditional uses, planned unit development conditional uses, changes in zoning districts and Zoning Map, and amending the text of this chapter, require review and action by the Village Board. A Zoning Board of Appeals is provided to ensure proper administration of this chapter and to avoid arbitrariness.

Sec. 13-10-2 Zoning Administrator.

(a) The Zoning Administrator is hereby designated as the primary administrative officer for the provisions of this chapter. The Zoning Administrator shall be appointed by resolution of the Village Board. The duty of the Zoning Administrator shall be to interpret and administer this chapter and to issue all permits required by this chapter, except as otherwise provided in this chapter. The Zoning Administrator shall further:

- (1) Issue all zoning permits, and make and maintain records, which shall be maintained in the Village Hall.
- (2) Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this title.
- (3) Maintain permanent and current records of this title, including but not limited to all maps, amendments, conditional uses, variances, appeals and applications.
- (4) Provide and maintain a public information function relative to all matters arising out of this title.
- (5) Initiate, direct and review from time to time a study of the provisions of this chapter and make recommendations to the Plan Commission not less than once a year.

(b) For purposes of this chapter, the Planning Commission and Zoning Administrator shall:

- (1) Receive, file and forward to the Village Clerk-Treasurer all applications for amendments to this title.
- (2) Receive, file and forward to the Planning Commission all applications for conditional uses.

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- (3) Receive, file and forward to the Zoning Board of Appeals all applications for appeals, variances, or other matters on which the Zoning Board of Appeals is required to act under this title and shall attend all Board of Appeals meetings to provide technical assistance when requested by the Zoning Board of Appeals.

(c) Due to the size of the Village, it may not be feasible to find a suitable person willing to take on the responsibility of being Zoning Administrator on a part-time basis. It is therefore provided that the function of the Zoning Administrator can be delegated to another Village official or a contract employee.

Sec. 13-10-3 Role of specific Village officers in zoning administration.

(a) *Plan Commission.* The Plan Commission, together with its other statutory duties, shall make reports and recommendations relating to the plan and development of the Village to the Village Board, other public officials and other interested organizations and citizens. In general, the Plan Commission shall have such powers as may be necessary to enable it to perform its functions and promote municipal planning. Under this chapter, one of its functions is to make recommendations to the Village Board pursuant to guidelines set forth in this chapter as to various matters and always being mindful of the intent and purposes of this chapter. Recommendations shall be made in writing. A recording of the Commission's minutes shall constitute the required written recommendation. The Commission may, in arriving at its recommendation, on occasion and of its own volition, conduct its own public hearing.

(b) *Zoning Board of Appeals.* A Zoning Board of Appeals is established to provide an appeal procedure for persons who deem themselves aggrieved by decisions of administrative officers in enforcement of this chapter. See 13-10-8 of this chapter for detailed provisions.

(c) *Village Board.* The Village Board, the governing body of the Village, subject to recommendations by the Plan Commission, has ultimate authority to make changes and amendments in zoning districts, the Zoning Map and Supplementary Floodland Zoning Map and to amend the text of this title. The Board may delegate to the Plan Commission the responsibility to hold some or all public hearings as required under this article and other provisions elsewhere in this title. The Village Board also acts as the final appeal body for any zoning decisions made by the Zoning Administrator or Zoning Board of Appeals.

Sec. 13-10-4 Zoning Permit.

(a) *Zoning permit required.* No building permit for a new structure, new use of land, water or air, or change in the use of land, water or air shall hereafter be issued and no structure or part thereof shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered unless the application for such permit has been examined by the Zoning Administrator and has affixed to it a certificate of the office of the Zoning Administrator indicating that the proposed use of land, buildings or structures and any future proposed buildings or structures comply with all of the provisions of this chapter.

(b) *Application.* Applications for a zoning permit shall be made to the Zoning Administrator and shall include the following where pertinent and necessary for proper review:

- (1) Names and addresses of the applicant, owner of the site, architect, professional engineer and contractor.
- (2) Description of the subject site by lot, block and recorded subdivision or by metes and bounds; address of the subject site; type of structure; existing and proposed operation or use of the structure or site; number of employees; and the zoning district within which the subject site lies.
- (3) Plat of survey prepared by a land surveyor registered in the State of Wisconsin or other map drawn to scale and showing such of the following as may be required by the Zoning Administrator: the location, boundaries, dimensions, uses, and size of the following: subject site; existing and proposed structures; existing and proposed easements, streets and other public ways; public utilities; off-street parking, loading areas and driveways; existing highway access restrictions; high water; channel, floodway and floodplain boundaries; and existing and proposed street, side and rear yards.
- (4) Additional information that may be required by the Zoning Administrator or Plan Commission (if involved).

(c) *Action.*

- (1) A zoning permit shall be granted or denied in writing by the Zoning Administrator within 30 days of application and the applicant shall post such a permit in a conspicuous place at the site.
- (2) The permit shall expire within 6 months unless substantial work has commenced or within 24 months after the issuance of the permit if the structure for which a permit is issued is not substantially completed, in which case of expiration the applicant shall reapply for a zoning permit before commencing work on the structure.
- (3) Any permit issued in conflict with the provisions of this chapter shall be null and void.

Sec. 13-10-5 Site plan approval.

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(a) *Site plan approval required.* All applications for building permits for any construction, reconstruction, moving, expansion or conversion of a building(s) in an R-3, MH-1, B-1, B-2, B-3, I-1, P-1 and/or C-1 District, and/or in conditional uses in an R-1, R-1A, R-2, and/or A-1 District, shall require site plan approval by the Plan Commission in accordance with the requirements of this section.

(b) *Application.* The applicant for a zoning or building permit shall also submit a site plan and sufficient plans and specifications of proposed buildings, machinery and operations to enable the Plan Commission or its expert consultants to determine whether the proposed application meets all the requirements applicable thereto in this chapter.

(c) *Administration.* The Zoning Administrator shall make a preliminary review of the application and plans and refer them, along with a report of his findings, to the Plan Commission within 10 days. The Plan Commission shall review the application and may refer the application and plans to any expert consultants selected by the Plan Commission and/or Village Engineer to advise whether the application and plans meet all the requirements applicable thereto in this chapter. Within 30 days of its receipt of the application, the Plan Commission shall authorize the Zoning Administrator to issue or refuse a zoning permit.

(d) *Requirements.* In acting on any site plan, the Plan Commission may impose conditions upon the issuance of site plan approval as it deems necessary to address the following issues:

- (1) The appropriateness of the site plan and buildings in relation to the physical character of the site and the usage of adjoining land areas.
- (2) The layout of the site with regard to entrances and exits to public streets; the arrangement and improvement of interior roadways; the location, adequacy and improvement of areas for parking and for loading and unloading and shall, in this connection, satisfy itself that the traffic pattern generated by the proposed construction or use shall be developed in a manner consistent with the safety of residents and the community, and the applicant shall so design the construction or use as to minimize any traffic hazard created thereby.
- (3) The adequacy of the proposed water supply, drainage facilities and sanitary and waste disposal.
- (4) The landscaping and appearance of the completed site. The Plan Commission may require that those portions of all front, rear and side yards not used for off-street parking shall be attractively planted with trees, shrubs, plants or grass lawns and that the site be effectively screened so as not to impair the value of adjacent properties nor impair the intent or purposes of this section. Lighting shall not unduly project onto adjacent properties or excessively project skyward.

(e) *Effect on municipal services.* Before granting any site approval, the Plan Commission may, besides obtaining advice from consultants, secure such advice as may be deemed necessary from the Village Engineer or other municipal officials, with special attention to the effect of such approval upon existing municipal services and utilities. Should additional facilities be needed, the Plan Commission shall forward its recommendations to the Village Board and shall not issue final approval until the Village Board has entered into an agreement with the applicant regarding the development of such facilities.

Sec. 13-10-6 Violations and penalties.

(a) *Violations.* It shall be unlawful to use or improve any structure or land or to use water or air in violation of any of the provisions of this chapter. In case of any violation, the Village Board, Plan Commission, the Zoning Administrator or any property owner who would be specifically damaged by such violation may cause appropriate action or proceeding to be instituted to enjoin a violation of this chapter or cause a structure to be vacated or removed.

(b) *Remedial action.* Whenever an order of the Zoning Administrator has not been complied with within 30 days after written notice has been mailed to the owner, resident agent or occupant of the premises, the Village Board, the Zoning Administrator or the Village Attorney may institute appropriate legal action or proceedings.

(c) *Penalties.* Any person, firm or corporation who or which fails to comply with the provisions of this chapter or any order of the Zoning Administrator issued in accordance with this chapter or resists enforcement shall, upon conviction thereof, be subject to a forfeiture and such additional penalties as provided for in 1-1-6 of this Code.

Sec. 13-10-7 Changes and amendments

(a) *Authority.* Whenever the public necessity, convenience, general welfare or good zoning practice requires, the Village may, by ordinance, change the district boundaries established by this chapter and the Zoning Map incorporated herein and/or the Supplementary Floodland Zoning Map incorporated herein, or amend, change or supplement the text of the regulations established by this chapter or amendments thereto. Such change or amendment shall be subject to the review of the Plan Commission.

(b) *Initiation of changes or amendments.*

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- (1) Initiation. A change or amendment may be initiated by the Village Board, the Plan Commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.
- (2) Petitions. Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Village, with the fee prescribed by the Fine and Fee Schedule, and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 - a. A plot plan drawn to a scale of one-inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
 - b. The owners' names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.
 - c. Additional information required by the Plan Commission.Public Hearing. The Village Clerk shall make notice of a public hearing by publishing a Class II notice. The clerk shall also provide notice to property owners who have requested such notice and all property owners within 200 feet of the boundary in question.
- (3) Recommendations. The Plan Commission shall hold a public hearing as provided for in § 62.23(7)(d), Wis. Stats., and review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made in writing to the Village Board.
- (4) Village Board's action. Following such hearing, the Plan Commission shall make a recommendation on the proposed ordinance effecting the proposed change or amendment. The Village Board shall then review the recommendation and make its determination.

(c) *Protests*. In the event of a protest against amendment to the Zoning Map, duly signed and acknowledged by the owners of 20% or more, either of the areas of the land included in such proposed change, or by the owners of 20% or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of 3/4 of the full Village Board membership.

In the event of protest against amendment to the text of the regulations of this title, duly signed and acknowledged by 20% of the number of persons casting ballots in the last general election, it shall cause a three-fourths vote of the full Village Board membership to adopt such amendment.

Sec. 13-10-8 Appeals.

(a) Appeals to Zoning Board of Appeals.

- (1) Scope of appeals. Appeals to the Zoning Board of Appeals may be made by any person aggrieved or by any officer, department, board or bureau of the Village affected by any decision of the administrative officer. Such appeals shall be taken within a reasonable 30 days of the alleged grievance or judgment in question by filing with the officer(s) from whom the appeal is taken and with the Zoning Board of Appeals a notice of appeal specifying the grounds thereof, together with payment of a filing fee as may be established by the Village Board. The officer(s) from whom the appeal is taken shall forthwith transmit to the Zoning Board of Appeals all papers constituting the record upon which the action appealed from was taken.
- (2) Stay of proceedings. An appeal shall stay all legal proceedings in furtherance of the action appealed from, unless the officer from whom the appeal is taken certifies to the Zoning Board of Appeals that, by reason of facts stated in the certificate, a stay would, in his opinion, cause immediate peril to life or property. In such cases, proceedings shall not be stayed otherwise than by a restraining order which may be granted by the Zoning Board of Appeals or by a court of record on application, on notice to the officer from whom the appeal is taken and on due cause shown.
- (3) Powers of Zoning Board of Appeals. In addition to these powers enumerated elsewhere in this Code, the Zoning Board of Appeals shall have the following powers:
 - a. Errors. To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the Zoning Administrator or Building Inspector.
 - b. Variances. To hear and grant appeals for variances as will not be contrary to the public interest where, owing to practical difficulty or unnecessary hardship, so that the spirit and purposes of this chapter shall be observed and the public safety, welfare and justice secured.
 - c. Interpretations. To hear and decide application for interpretations of the zoning regulations and the boundaries of the zoning districts after the Village Board has made an advisory review and recommendation.
 - d. Substitutions. To hear and grant applications for substitution of more restrictive nonconforming uses for existing nonconforming uses provided no structural alterations are to be made and the Village Board has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.

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- e. Unclassified uses. To hear and grant applications for unclassified and unspecified uses provided that such uses are similar in character to the principal uses permitted in the district and the Village Board has made a recommendation.
- f. Temporary uses. To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the Village Board has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Zoning Board of Appeals and shall be issued for a period not to exceed 12 months. Compliance with all other provisions of this chapter shall be required.
- g. Permits. The Board may reverse, affirm wholly or partly, modify the requirements appealed from and may issue or direct the issue of a permit.

(b) *Hearing on appeals.* The Zoning Board of Appeals shall fix a reasonable time for the hearing, cause a Class 1 notice thereof to be published in a newspaper not less than 7 days prior thereto, and cause notice to be given to the appellant or applicant and the administrative officer(s) appealed from by regular mail or by personal service not less than 5 days prior to the date of hearing. In every case involving a variance, notice shall also be mailed not less than 5 days prior to the hearing of the fee owners of records of all land within 100 feet of any part of the subject building or premises involved in the appeal.

(c) *Decisions of Board of Appeals.*

- (1) Time frame. The Zoning Board of Appeals shall decide all appeals and applications within 30 days after the public hearing and shall transmit a signed copy of the Board's decision to the appellant or applicant and the Zoning Administrator.
- (2) Conditions. Conditions may be placed upon any zoning permit ordered or authorized by this Board.
- (3) Validity. Variances, substitutions or use permits granted by the Board shall expire within six months unless substantial work has commenced pursuant to such grant.

(d) *Variance.*

(1) Purpose.

- a. A request for a variance may be made when an aggrieved party can submit proof that strict adherence to the provisions of this chapter would cause him undue hardship or create conditions causing greater harmful effects than the initial condition. A variance granted to a nonconforming use brings that use into conformance with the district and zoning requirements.
 - b. The Zoning Board of Appeals may authorize upon appeal, in specific cases, such variance from the terms of this chapter as will not be contrary to the public interest, where owing to special conditions a literal enforcement of the provisions of this chapter will result in unnecessary hardship and so that the spirit of this chapter shall be observed and substantial justice done. No variance shall have the effect of allowing in any district uses prohibited in that district, permit a lower degree of flood protection than the flood protection elevation for the area or permit standards lower than those required by state law.
 - c. For the purposes of this section, "unnecessary hardship" shall be defined as an unusual or extreme decrease in the adaptability of the property to the uses permitted by the zoning district which is caused by facts, such as rough terrain or good soil conditions, uniquely applicable to the particular piece of property as distinguished from those applicable to most or all property in the same zoning district.
- (2) Application for variance. The application for variance shall be filed with the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land or water to be affected. The application shall contain the following information:
- a. Name and address of applicant and all abutting and opposite property owners of record.
 - b. Statement that the applicant is the owner or the authorized agent of the owner of the property.
 - c. Address and description of the property.
 - d. A site plan showing an accurate depiction of the property.
 - e. Additional information required by the Village Engineer, Village Board, Zoning Board of Appeals or Zoning Administrator.
 - f. Fee receipt in the amount as determined by the Fine and Fee Schedule.
- (3) Public hearing of application. The Zoning Board of Appeals shall conduct at least one public hearing on the proposed variance. A Class II notice of such hearing shall be given not more than 30 days and not less than 10 days before the hearing in one or more of the newspapers in general circulation in the Village and shall give due notice to the parties in interest, the Zoning Administrator and the Village Board. Notice of such hearing shall also be mailed 14 days prior to all landowners within 200 feet boundary of the property in question. At the hearing the appellant or applicant may appear in person, by agent or by attorney. The Zoning Board of Appeals shall thereafter reach its decision within 30 days after the final hearing and shall transmit a written copy of its decision to the appellant or applicant.
- (4) Action of the Board. For the Zoning Board of Appeals to grant a variance, it must find that:

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- a. Denial of variance may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that this chapter should be changed.
 - b. The conditions upon which a petition for a variance is based are unique to the property for which variance is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.
 - c. The purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property.
 - d. The granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.
 - e. The proposed variance will not undermine the spirit and general and specific purposes of this title.
- (5) Conditions. The Zoning Board of Appeals on appeal may impose such conditions and restrictions upon the premises benefited by a variance as may be necessary to comply with the standards established in this section.

(e) *Review by Village Board.* All actions of the Zoning Board of Appeals are subject to review by the Village Board. The Village Board may ratify or overrule any decisions and variances granted by the Board of Appeals.

(f) *Review by court of record.* Any person or persons aggrieved by any decision of the Zoning Board of Appeals may present to a court of record a petition, duly verified, setting forth that such decision is illegal and specifying the grounds of illegality. Such petition shall be presented to the court within 30 days after the filing of the decision of the Zoning Board of Appeals.

CHAPTER 11: COMPREHENSIVE PLANNING

Sec. 13-11-1 Comprehensive Plan adoption.

Pursuant to § 62.23(2) and (3), Wis. Stats., the Village is authorized to prepare and adopt a comprehensive plan as defined in § 66.1001(1)(a) and (2), Wis. Stats. The Village Board adopted written procedures designed to foster public participation in every stage of the preparation of a comprehensive plan as required by § 66.1001(4)(a), Wis. Stats. The Plan Commission, by a majority vote recorded in its official minutes dated December 30, 2009, adopted a resolution recommending to the Village Board the adoption of the comprehensive plan document titled "Village of Boyceville Comprehensive Plan 2010 - 2030 " containing all the elements specified in § 66.1001(2), Wis. Stats. The Village held at least one public hearing on this section in compliance with the requirements of § 66.1001(4)(d), Wis. Stats. The Village Board adopted the comprehensive plan pursuant to § 66.1001(4)(c), Wis. Stats.