

**VILLAGE OF SOMERS**  
**GENERAL ZONING AND SHORELAND/FLOODPLAIN ZONING ORDINANCE**

**TABLE OF CONTENTS**

**CHAPTER 1 INTRODUCTION**

ZN 1.01	Preliminary Consideration
ZN 1.02	Interpretation

**CHAPTER 2 ADMINISTRATION**

ZN 2.01	Village of Somers Department of Planning and Development
ZN 2.02	Permits

**CHAPTER 3 GENERAL LAND USE REGULATIONS**

ZN 3.01	General Provisions
ZN 3.02	Use Regulations
ZN 3.03	Home Occupations and Professional Home Offices
ZN 3.04	Site Regulations
ZN 3.05	Performance Standards
ZN 3.06	Traffic, Parking and Access
ZN 3.07	Signs
ZN 3.08	Fences
ZN 3.09	Swimming Pools
ZN 3.10	Shoreland Regulations
ZN 3.11	Mobile Towner Siting Regulations
ZN 3.12	Small Wind Energy Systems
ZN 3.13	Large Wind Energy Systems
ZN 3.14	Accessory Building Regulations
ZN 3.15	Decks and Patios
ZN 3.16	Accessory Living Unit
ZN 3.17	Temporary Uses
ZN 3.18	Lighting
ZN 3.19	Landscaping

## **CHAPTER 4 DISTRICT REGULATIONS**

ZN 4.01	Zoning Districts
ZN 4.02	Agricultural Districts
ZN 4.03	Residential Districts
ZN 4.04	Business Districts
ZN 4.05	Manufacturing Districts
ZN 4.06	Public Districts
ZN 4.07	Conservancy Districts
ZN 4.08	Overlay Districts

## **CHAPTER 5 EXCEPTIONS AND ACCOMMODATIONS**

ZN 5.01	Modifications and Exceptions
ZN 5.02	Non-Conforming Lots, Structures and Uses
ZN 5.03	Conditional Uses

## **CHAPTER 6 ENFORCEMENT**

ZN 6.01	Bonds
ZN 6.02	Violations, Injunction, Abatement and Removal
ZN 6.03	Proceedings
ZN 6.04	Penalties
ZN 6.05	Liens

## **CHAPTER 7 APPEALS**

ZN 7.01	Administrative Appeals
ZN 7.02	Variances Before the Board of Review
ZN 7.03	Judicial Review

## **CHAPTER 8 AMENDMENTS AND CHANGES**

ZN 8.01	General Boundary and Text Amendments
ZN 8.02	Shoreland Amendments
ZN 8.03	Floodplain Amendments

## **APPENDIX “A” – DEFINITIONS**

## **CHAPTER 1**

### **INTRODUCTION**

ZN 1.01	Preliminary Consideration
ZN 1.02	Interpretation



## **ZN 1.01 PRELIMINARY CONSIDERATIONS.**

### **(1) AUTHORITY.**

This Ordinance is adopted pursuant to the authority granted by the Wisconsin Statutes but not limited to §61.35, §61.351, §61.352, §61.353, §62.23 and §87.30, Wis. Stats. Any mandatory amendments or repeals or recreations to state statutes pertaining to the subject matter of this Ordinance are incorporated in this Ordinance as of the effective date of the amendment, repeal or recreation. The Village Board of Trustees of the Village of Somers, Wisconsin do ordain as follows:

### **(2) PURPOSE.**

- (a) It is the finding of the Village of Somers Board of Trustees that the regulation of land uses within the Village serves to promote the general welfare of its citizens, the quality of the environment, and the conservation of its resources.
- (b) The purpose of this Ordinance is to regulate and encourage the use of land, waters and structures in the Village in a planned and orderly manner so as to promote the public health, safety, morals, prosperity, aesthetics, comfort, convenience and general welfare of the citizens of the Village.

### **(3) INTENT.**

- (a) By the enactment of this Ordinance, it is the intent and objective of the Village Board of Trustees pursuant to the authority cited in Section ZN 1.01(1) of this Ordinance those areas falling within the jurisdiction of this to accomplish the following within:
  - 1 Regulate the use of all lands, buildings, structures and waters in the Village of Somers so as to determine, establish, regulate and restrict:
    - a The areas within which agriculture, forestry, industry, trades, business and recreation may be conducted;
    - b The areas in which residential uses may be regulated or prohibited;
    - c The areas in and along or in or along natural water courses, channels, streams and creeks in which trades or industries, filling or dumping, erection of structures and location of buildings may be prohibited or restricted.
  - 2 Designate certain areas, uses or purposes which may be subjected to special regulation.

- 3 Determine, establish, regulate and restrict the location, set back, side yard, height, bulk, number of stories and size of buildings and other structures.
- 4 Determine, establish, regulate and restrict the location of buildings and structures designed for specific uses and designation of uses for which buildings and structures may not be used or altered.
- 5 Determine, establish, regulate and restrict trailer camps or tourist camps and motels or both and mobile home parks.
- 6 Regulate population density and distribution
- 7 Determine, establish, regulate and restrict the percentage of any parcel which may be occupied, size of yards, courts and other open spaces.
- 8 Provide healthy surroundings for family life.
- 9 Provide areas for peace and quiet, open space and privacy.
- 10 Determine, establish, regulate and restrict the location of roads and schools.
- 11 Insure adequate highway, utility, health, educational, recreational and other public facilities.
- 12 Lessen congestion in and promote the safety and efficiency of streets and highways; regulate parking, loading and access for safety and efficiency purposes.
- 13 Secure safety from fire, explosions, flooding, panic and other dangers.
- 14 Provide adequate light, air, sanitation and drainage.
- 15 Establish performance standards so as to guard against air and water pollution, unnecessary contamination, noises, vibrations and odors, and also glare, heat, fire, flooding, radiation, and other hazards and nuisances.
- 16 Promote the efficient and economical use of public funds.
- 17 Protect property values and the property tax base.
- 18 Recognize the needs of agriculture, forestry, industry, business and recreation and future growth.

- 19 Further the appropriate use of land and encourage uses of land and other natural resources which are in accordance with their character and adaptability.
- 20 Prevent and control soil erosion, sedimentation and water pollution of the surface and subsurface waters.
- 21 Further the maintenance of safe and healthful water conditions.
- 22 Prevent flood damage to persons and property and minimize expenditures for flood relief and flood control projects.
- 23 Preserve shore growth and cover and promote the natural beauty of the shoreland and floodplain areas.
- 24 Protect fish and animal life including the spawning, resting, nesting, nursing and feeding areas.
- 25 Implement those municipal, county, watershed, and regional comprehensive plans or components of such plans applicable to and adopted by the Village.
- 26 Obtain the wise use, conservation, development and protection of the Village's water, soil, wetlands, woodlands, wildlife and other natural resources and attain a balance between land uses and the ability of the natural resource space to support and sustain such uses.
- 27 Preserve natural growth and cover; promote, stabilize and protect the natural beauty and amenities of landscape and man-made developments within the Village and encourage the future aesthetic development of the Village.
- 28 Preserve historical sites.
- 29 Preserve neighborhoods, eliminate blight and protect life, health and property.
- 30 Minimize expenditures of public funds for flood control projects.
- 31 Minimize rescue and relief efforts undertaken at the expense of the taxpayers.
- 32 Minimize business interruptions and other economic disruptions.
- 33 Minimize damage to public facilities in the floodplain.
- 34 Minimize the occurrence of future flood blight areas in the floodplain.

- 35 Discourage the victimization of unwary land and homebuyers.
  - 36 Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
  - 37 Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- (b) To accomplish the above objectives, it is the further intent of the Village Board of Trustees in enacting this Ordinance to hereby:
- 1 Contract with the Kenosha County Office Department of Planning and Development to assist in the administration of these Ordinances.
  - 2 Create, as part of this Ordinance, all of the necessary districts, maps, and staffing deemed necessary for achieving all of the objectives of this Ordinance.
  - 3 Delineate as clearly as possible those circumstances which when present will qualify as exceptions, to this Ordinance as well as those circumstances in which changes and amendments may be made to the Ordinance or variances granted.
  - 4 Delineate, without limitation due to enumeration, those aspects of zoning which are to be prohibited, such as use variances.
  - 5 Follow all due process requirements and procedures so as to safeguard the rights of individual landowners.
  - 6 Provide for the strict enforcement of this Ordinance.
  - 7 Establish a proper system for reviewing and appealing the actions of Village staff relative to land uses.
  - 8 This Ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR.
  - 9 Make available and distribute all maps, engineering data, and regulations in accordance with the provisions of Wis. Admin. Code §NR 116.20(5).



(4) **TITLE.**

This Ordinance shall be known as, referred to, and cited as the "VILLAGE OF SOMERS, WISCONSIN GENERAL ZONING-AND SHORELAND/FLOODPLAIN ZONING ORDINANCE" and hereinafter referred to as the "Ordinance".

**ZN 1.02 INTERPRETATION.**

(1) **ADOPTION, APPROVAL AND EFFECTIVE DATE-SHORELAND/FLOODPLAIN AREAS.**

Within those areas defined in this Ordinance as shorelands and floodplains, this Ordinance shall be effective after a public hearing, adoption by the Village Board of Trustees and publication or posting as provided by law. For purposes of this section, this Ordinance in its entirety shall consist of both the text and maps of the various districts in the Village of Somers falling within the shorelands/floodplains areas.

(2) **ADOPTION, APPROVAL AND EFFECTIVE DATE-OTHER AREAS.**

- (a) This Ordinance shall be effective after a public hearing; adoption by the Village Board of Trustees; and publication or posting as provided by law.

(3) **JURISDICTION.**

- (a) The provisions of this Ordinance shall apply to all structures, land, water and air located within the Village of Somers, Wisconsin, where this Ordinance has been approved pursuant to Section ZN 1.02(2) of this Ordinance.
- (b) The provisions of this Ordinance shall nevertheless apply to all structures, lands, water and air within the shoreland jurisdiction of the Village of Somers. The shoreland includes all areas within the following distances from the ordinary high water mark of all navigable waters: one thousand (1,000) feet from a lake, pond or flowage; three hundred (300) feet from a river or stream; or to the landward side of the floodplain, whichever distance is greater. If the navigable water is a glacial pothole lake, the distance shall be measured from the high water mark thereof.
- (c) Unless specifically exempted by law, all cities, villages, town governments, and Kenosha County are required to comply with this Ordinance and obtain all necessary permits in those areas described in subsections (a) and (b) above. State agencies are required to comply with §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 §30.12(4)(a), Wis. Stats., applies.

**(4) PROJECTS IN PROGRESS.**

The provisions of this Ordinance shall not apply to any construction project for which a valid zoning permit has been issued prior to the enactment of this Ordinance, with the provision, however, that construction, has substantially commenced as defined in this Ordinance, within six (6) months after the issuance of the permit and with the further provision, however, that in the case of permits granted in the Shoreland-Floodplain District that substantial construction is completed, as defined in this Ordinance, within fifteen (15) months after the issuance of the permit.

**(5) ABROGATION.**

It is not intended by this Ordinance to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules or permits previously adopted or issued pursuant to law except as provided for in Section ZN 1.02(5) of this Ordinance. Nor is it the intent of this Ordinance to abrogate, impair or interfere with the legal rights of individuals as they may be guaranteed by the state and federal constitutions, statutes, and administrative rules. Claims for such interference may be addressed through the administrative appeals procedure provided for in Section ZN 7.01 of this Ordinance.

**(6) LIBERAL CONSTRUCTION.**

In the interpretation and application of this Ordinance, the provisions of this Ordinance shall be held to be the minimum requirements and shall be liberally construed in favor of the Village and shall not be construed to be a limitation or repeal of any other power granted by the Wisconsin Statutes, as may be amended from time to time, or now possessed by the Village of Somers. If a provision of this Ordinance, required by Wis. Admin. Code §NR 116, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.

**(7) SEVERABILITY AND NON-LIABILITY.**

- (a) If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.
- (b) If any application of this Ordinance to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.
- (c) The Village does not guarantee, warrant or represent that only those areas designated as floodlands will be subject to periodic inundation or that those soils listed as being unsuited for specific uses are the only unsuitable soils, and hereby asserts that there is

no liability on the part of the Board of Trustees, its agencies or employees for any flood damage, sanitation problems, structural or other damages that may occur as a result of reliance upon and conformance with this Ordinance.

**(8) LIMITATION OF ACTION.**

Pursuant to §59.69(14), Wis. Stats., a land owner, occupant or other person affected by this Ordinance or amendment thereto who claims that this Ordinance or amendment is invalid because procedures prescribed by the statutes or the Ordinance were not followed shall be forever barred unless the court action is commenced within six (6) months after adoption. Provided, this sub§ shall not apply unless there has been at least one (1) publication of a notice of a zoning hearing in a local newspaper of general circulation and unless a public hearing has been had on the Ordinance or amendment at the time and place specified in such notice.

**(9) ZONING MAPS.**

The Zoning Maps were adopted and approved with the text as part of this Ordinance and are available to the public for inspection at the Village Hall and/or in the Department of Planning and Development. These maps were entitled “Kenosha County Zoning Maps” numbered, “Kenosha County - 1” through “Kenosha County - 8”. Kenosha County zoning maps in digital format developed with geographic information systems software and are updated from time to time replaced the hard copy zoning maps and shall be maintained in the Department of Planning and Development. Copies of the zoning maps in digital format shall be made available to the public for inspection, at cost, by the Department of Planning and Development.

**(10) OTHER MAPS.**

- (a) Topographic and Orthophotographic. Village of Somers Department of Planning and Development makes use of topographic and orthophotographic maps in digital format which are updated from time to time and are maintained in the Department of Planning and Development.
- (b) Wetlands. Village of Somers Department of Planning and Development makes use of wetland maps as referenced from the Wisconsin Department of Natural Resources (DNR), maps used by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) or other maps that reflect the best data available.
- (c) Environmental Corridors. Village of Somers Department of Planning and Development makes use of primary and secondary environmental corridor maps and isolated natural resource maps as defined by the Southeastern Wisconsin Regional Planning Commission (SEWRPC) or other maps that reflect the best data available.

**(11) ZONING MAP AMENDMENTS-EFFECTIVE DATE.**

- (a) Amendments to the Zoning Maps shall become effective upon adoption by the Village of Somers Board of Trustees and the filing of proof of publication thereof.
- (b) Amendments to the FPO Floodplain Overlay District shall not become effective until approved by the Wisconsin Department of Natural Resources, (DNR) and FEMA through the Letter of Map Change process in accordance with Section ZN 8.03(1) Amendments. Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain or floodway in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process in accordance with Section ZN 8.03(1) Amendments before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR.

(12) **INTERPRETATION OF DISTRICT BOUNDARIES.**

- (a) Boundaries of the districts set forth in Section ZN 4.02 to Section ZN 4.08 are hereby established as shown on the digital zoning maps as described in Section ZN 1.02(10). No change in a zoning boundary shall be made except after petition, review and approval pursuant to the requirements of Section ZN 8.01 of this Ordinance.
- (b) Boundaries of the basic zoning districts shall be construed to follow Corporate Limits; U.S. Public Land Survey section lines; lot or property lines; centerlines of streets, highways, alleys, easements, navigable bodies of water, and railroad rights-of-way, or such lines extended. Lines which appear to be parallel to any of the aforementioned boundaries of specified distance shall be construed to be parallel as noted. Where the above rules cannot be readily applied, the location of district boundary lines shall be determined by use of the scale shown on the official zoning map.
- (c) Boundaries of the floodplain overlay districts as referenced in the following official floodplain maps and studies.

- 1 All areas covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM), as approved by DNR and FEMA. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) volume numbers 55059CV001B and 55059CV002B, effective March 7, 2017 and are shown as AE, A, AH, and AO Zones on the FIRM. The FIRM Map Panels affected are: 55059C0017D, 55059C0036D, 55059C0061D, 55059C0063D, 55059C0139D, 55059C0251D, 55059C0252D, 55059C0016D, 55059C0018D, 55059C0038D, 55059C0041D, 55059C0110D, 55059C0116D, 55059C0117D, 55059C0118D, 55059C0119D, 55059C0126D, 55059C0126D, 55059C0127D, 55059C0128D, 55059C0129D, 55059C0131D, 55059C0132D, 55059C0133D, 55059C0134D, 55059C0136D, 55059C0137D, 55059C0138D, 55059C0151D, 55059C0154D, 55059C0156D, 55059C0157D, 55059C0158D, 55059C0159D,

55059C0176D, 55059C0177D, 55059C0178D, 55059C0179D, 55059C0231D, 55059C0232D dated June 19, 2012; and 55059C0184E dated March 7, 2017. These official floodplain maps and studies are on file in the office of the Department of Planning and Development. If more than one (1) map or revision is referenced, the most restrictive information shall apply.

- (d) Floodplain Zoning is described as an overlay district and are shown on the digital zoning maps as described in Section ZN 1.02(10) and as described as follows:
    - 1 The FPO Floodplain Overlay District is those areas that may be covered by floodwater during the regional flood including the floodway and are contained within AE and A Zones as shown on the FIRM.
  - (e) Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsection 1 and 2 below. If a significant difference exists, the map shall be amended according to Section ZN 8.03(4) Amendments. The planning and development administrator can rely on a boundary derived from a profile elevation to grant or deny a zoning permit, whether or not a map amendment is required. The planning and development administrator shall be responsible for documenting actual pre-development 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 planning and development administrator and an applicant over the district boundary line shall be settled according to ZH 7.02(3)(a)5 and the criteria in subsections 1 and 2 below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to Section ZN 8.03(4) Amendments.
    - 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.
    - 2 Where flood profiles do not exist for projects, the location of the boundary shall be determined by the digital zoning maps as described in Section ZN1.02(10).
  - (f) Boundaries of the C-1 Lowland Resource Conservancy District, that includes shoreland-wetlands, are shown on the maps referred to in Section ZN 1.02(13)(a) and boundary locations were determined by the criteria set forth in Section ZN 4.07(1)(b).
- (13) **ANNEXED LANDS.**

- (a) Pursuant to §59.69(7), Wis. Stats., whenever any area which has been subject to the Village of Somers zoning ordinance petitions to become part of the village, the regulations imposed by the Village of Somers zoning ordinance shall continue in effect, without change, and shall be enforced by the village until such regulations have been changed by official action of the governing body of the village.

(14) **DEFINITIONS.**

For the purpose of this Ordinance, the definitions listed in Appendix "A" shall be used unless otherwise specified. Words used in the present tense include the future; the singular number includes the plural number; and the plural number includes the singular number. The word "shall" is mandatory and not directory. Words not defined in Appendix "A" shall be construed according to any applicable definition set forth in either the State Statutes, Administrative Code or Village Ordinance or in lieu thereof, shall be construed according to accepted land use, scientific, or architectural definition or in lieu thereof, according to their customary dictionary definition.

## **CHAPTER 2**

### **ADMINISTRATION**

ZN 2.01	Village of Somers Department of Planning and Development
ZN 2.02	Permits





## **ZN 2.01 VILLAGE OF SOMERS DEPARTMENT OF PLANNING AND DEVELOPMENT.**

### **(1) DEPARTMENT OF PLANNING AND DEVELOPMENT.**

The Department of Planning and Development is hereby created by the Village Board of Trustees for the purpose of administering all planning functions required by Statute and enforcing all planning and zoning related ordinances enacted by the Village Board of Trustees and any other ordinance designated by the Village Board of Trustees to be enforced by the Department of Planning and Development.

### **(2) PLANNING AND DEVELOPMENT DIRECTOR-SELECTION AND TERM OF OFFICE.**

- (a) The position of Development Director is hereby created as a permanent position by the Village Board. The Village Administrator shall serve as the Planning and Zoning Director unless and until the Village Board designates another individual to serve in this position.
- (b) Qualifications for the position of administrator shall be determined by the Village Board. Such qualifications shall include requirements with respect to expertise in the areas of planning, zoning, geography or urban affairs and past related work experience.

### **(3) DUTIES OF THE PLANNING AND DEVELOPMENT DIRECTOR.**

The Village Administrator or his/her designee shall act as the Village Planning and Development Director. The Village Planning and Development Director shall have the following duties:

- (a) To administer and enforce the zoning, shoreland, floodplain, and subdivision control, ordinances enacted by the Village Board of Trustees so as to manage and promote the public health, safety, convenience and general welfare of the citizens of the Village pursuant to the appropriate statutes and ordinances.
- (b) To give all legal notices required by state statutes and the aforementioned ordinances.
- (c) To investigate alleged zoning violations and give notice thereof to the owner of the subject property and assist in necessary prosecutions and make as often as necessary, all necessary inspections of structures, lands and waters to certify compliance with the aforementioned ordinances and report uncorrected violations to the Village Attorney in a manner specified by him and assist the Village Attorney in any action involving the Department of Planning and Development.
- (d) To extend zoning information, assistance and advice to the public.
- (e) To maintain, by parcel number where feasible, the appropriate records and indexes for all permits, inspections, complaints, public hearings, legal notices and zoning maps and other official actions.

- (f) To attend policy formulation meetings and make recommendations to the Village Board, and set public hearings as required by the Wisconsin Statutes or the Municipal Code of the Village.
- (g) To make all necessary studies required for the improvement of land use in the Village and studies relevant to the imposition of conditions for obtaining a conditional use permit.
- (h) To supervise the operation of the office .
- (i) To coordinate with contracted personnel including, but not limited to, the Office of Planning and Development personnel, the Village Attorney and Village Engineer.
- (j) To prepare, present and implement the annual budget for the Department of Planning and Development.
- (k) To prepare all necessary resolutions and reports for the Village Board of Trustees that relate to Planning and Development.
- (l) To collect and account for all fees and other monies received by the office.
- (m) To prepare, maintain, file and record by parcel number where feasible, all records, maps, photographs, studies, reports, surveys, tapes and indexes required for the efficient and proper administration and enforcement of the aforementioned ordinances.
- (n) Pursuant to Wisconsin Statutes, maintain a record after the approval of this Ordinance or amendments thereto or changes in district boundaries, of all lands, premises and buildings in the Village used for purposes not conforming to the regulations applicable to the district in which they are situated.
- (o) To contest, subject to the time limitations set forth in the Wisconsin Statutes and any conditions required by Chapter 68 of the Wisconsin Statutes, any decision of the Board of Review which is in the opinion of the administrator incorrect.

(4) **POWERS.**

The Village planning and development director shall have the power to:

- (a) Receive, review and act upon, (either granting or denying) all zoning, use and other permit applications authorized by the aforementioned ordinances and assure that the regional flood elevation for the proposed development is shown on all permit applications.

- (b) 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 and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment during conditions of flooding.
- (c) Review all subdivisions for compliance with the standards in Section ZN 2.01(3)(h) above. 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 Ordinance and all other requirements in Section ZN 4.08(1). Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.
- (d) Determine similarities in intended uses with those uses set forth in a particular district as provided for in Chapter 4 of this Ordinance.
- (e) Prohibit the use or erection of any structure or the use of any land or water until he has inspected and approved such use or erection.
- (f) Suspend or revoke any permit issued by the Department of Planning and Development upon non-compliance with the terms of the permit and/or this Ordinance.
- (g) Commence, subject to the Village Attorney's approval, any legal action in the name of the Village to ensure enforcement of the terms of the aforementioned ordinances.
- (h) Issue citations pursuant to §66.0119, Wis. Stats., to be served by the Kenosha County Sheriff or private process server for violations of any of the aforementioned ordinances.
- (i) Gain entry to premises, buildings and structures for the purpose of investigating applications for permits and for the purpose of determining compliance with any permit issued pursuant to any of the aforementioned ordinances or provisions of this Ordinance during reasonable daylight hours or any other time authorized by the court. If entry is refused after presentation of proper identification, a special inspection warrant may be procured in accordance with §66.0119, Wis. Stats.
- (j) Maintain records of all permits issued, inspections made, work approved, and other official actions. Floodproofing certificates, water surface profiles, floodplain zoning

maps and ordinances, non-conforming uses and structures including changes, appeals, variances and amendments. All substantial damage assessment reports for floodplain structures and list of non-conforming structures and uses.

- (k) Record the lowest floor elevations of all structures erected, moved, altered, or improved in the floodland districts.
- (l) Establish that all necessary permits that are required for floodland uses by state and federal law have been secured.
- (m) Inspect all structures, lands, and waters as often as necessary to assure compliance with this Ordinance. Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
- (n) Investigate all complaints made relating to the location of structures and the use of structures, lands, and waters, give notice of all violations of this Ordinance to the owner, resident, agent, or occupant of the premises, and report uncorrected violations to the corporation counsel in a manner specified by him.
- (o) Assist the Village Attorney in the prosecution of ordinance violations.
- (p) Be Permitted Access to premises and structures during reasonable hours to make those inspections as deemed necessary by him to ensure compliance with this Ordinance. If, however, he is refused entry after presentation of his identification, he may procure a special inspection warrant in accordance with §66.122, Wis. Stats.
- (q) Prohibit the use or erection of any structure, land, or water until he has inspected and approved such use or erection.
- (r) Request Assistance and cooperation from the Kenosha County Sheriff's Department and Village Attorney as deemed necessary.
- (s) Submit Copies of the following items to the DNR Regional office:
  - 1 Within ten (10) days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
  - 2 Copies of case by case analyses and other required information including an annual summary of floodplain zoning actions taken.
  - 3 Copies of substantial damage assessments performed and all related correspondence concerning the assessments.

## **ZN 2.02 PERMITS.**

### **(1) APPLICATIONS REQUIRED.**

- (a) No buildings, structures, or any parts thereof, or any development except as hereinafter provided in this Ordinance, shall be built, enlarged, altered, repaired, demolished, placed or moved within the areas subject to the provisions of this Ordinance until a permit has been applied for in writing and issued by the Planning and Development Director or his Deputy or his designee. For the purposes of this section, to alter or repair a building or structure shall be construed to mean to change the dimensions, square footage, cubic footage, or structural supports of a building or structure or to change the structure in such a way that the future use of the premises is inconsistent with the district wherein the parcel is located. All permits issued by the Department of Planning and Development shall be issued only upon the condition that the Director of Planning and Development or his designee may inspect the premises for compliance during reasonable daylight hours.
- (b) No new business or industry established in an existing structure shall be permitted to commence its operation until such time as a certificate of compliance has been issued by the Department of Planning and Development certifying that the proposed use or operation is in compliance with the terms of this Ordinance.
- (c) Applications for permits required by this Ordinance shall be made to the Department of Planning and Development on forms furnished by the office or authorized by this Ordinance and shall include all information and data required by such forms.
- (d) Applications for zoning permits required by this Ordinance shall fully comply with §145.195, Wis. Stats., and with the Kenosha County Sanitary Code and the Kenosha County Private Sewage System Ordinance, both of which may be amended from time to time.
- (e) Reserved for future use.
- (f) No application shall be accepted by the Department of Planning and Development if the parcel for which a permit is being applied for is not in compliance with any provision of this Ordinance.
- (g) Any application for a permit under this ordinance or any use subject to the regulations and standards set forth herein shall be accompanied by a sworn statement by the owner of the subject property that said property and use will be operated in accordance with the provisions of this Ordinance.

- (h) Every application shall include the following information or as deemed appropriate by the Department of Planning and Development:
- 1 Names and addresses of the applicant, owner of the site, architect, professional engineer, contractor and authorized agent and their respective phone numbers.
  - 2 Description of the subject site by lot, block, and reported subdivision or by metes and bounds; addresses of the subject sites; type of structure; existing and proposed operation or use of the structure or sites; number of employees, anticipated patrons or maximum seating capacity and the zoning district within which the subject site lies, tax parcel number, date of purchase and projected cost of construction.
  - 3 A plat of survey and/or site plan layout consisting of a survey prepared by a land surveyor registered by the State of Wisconsin or other map drawn to scale and approved by the Department of Planning and Development Director showing the locations, boundaries, dimensions, uses and sizes of the following as deemed appropriate by the Department of Planning and Development: subject site, existing and proposed structures; existing and proposed easements, streets, and other public ways and utilities; off-street parking, loading areas, and driveways; existing highway access restrictions; ordinary high water mark, channel, floodway, floodplain, and shoreland boundaries; and existing and proposed street, sides, rear, and shore yard setbacks. In addition, the site plan or plat of survey shall show, when required by the Department of Planning and Development, the type, slope, and boundaries of soils shown on the operational soil survey maps prepared by the United States Department of Agriculture Natural Resources Conservation Service for the Southeastern Wisconsin Regional Planning Commission. Also, such survey/site plan shall show, when required by the Department of Planning and Development, any natural features such as waterways, woods, terrain, etc., which would tend to restrict the development of the parcel. Such survey or plan shall also show the location and size of any septic field, holding tank, well, utilities and roadways. Dimensions for street, sides, rear and shore yard setbacks shall be clearly shown. All permit applications for new principal structures in any district shall be accompanied by a plat of survey prepared by a land surveyor registered by the State of Wisconsin.
  - 4 The permit fee specified in these Ordinances.
  - 5 Additional information that may be required by the Village Board, Director or Sanitary Inspector.

- 6 The elevation of the lowest floor of proposed buildings and any fill using the North American Vertical Datum (NAVD)
- 7 Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of Section ZN 4.08 are met; and
- 8 Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to Section ZN 8.03(4). This may include any of the information noted in Section ZN 4.08.
- 9 Development and substantial improvements in the floodland districts may require an hydraulic and hydrologic study. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State of Wisconsin. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department of Natural Resources.

**(2) APPLICATIONS NOT REQUIRED.**

Except for development and substantial improvements in the floodland districts, permits shall not be required for:

- (a) Farm buildings and structures which are not for human habitation and which are not permanently fixed to the ground and which are readily removable in their entirety, provided that street, sides, rear and shore yard setback requirements for that District are met. This exemption, however, shall not apply to roadside stands more than three hundred (300) square feet in area used for the sale of farm products or other goods and services produced solely on the parcel.
- (b) Farm improvements such as drainage irrigation systems, grass waterways and terraces, farm fences except as outlined in this Ordinance.
- (c) Public utilities such as gas and oil pipe lines, electric and telephone transmission and distribution lines, poles and other accessories which shall be permitted in all districts except for those areas defined as shoreland areas provided, however, that when a utility proposes a major inter-city transmission line or pipeline, it give notice to the Village Board of such intention and of the time and place of hearing before the Public Service Commission and provided further that at the request of the Village Board, the utility meet with it to discuss the routing of said transmission line or pipe line and before actual construction, file a mapped description of the route of such transmission line with the Village Board.

- (d) Repairs and other alterations which do not change the cubic footage of a building or structure and do not constitute a change in use and meet all street, sides, rear and shore yard setback requirements.
- (e) Structures one hundred fifty (150) square feet or less in area and not more than fifteen (15) feet in height. Such structures must, however, conform with the yard requirements of the district in which they are located, or if the structure is located in the rear yard, with the requirements set forth in Section ZN 5.01(2) of this Ordinance.
- (f) Steps and stairs to a dwelling in conformance with Section ZN 5.01(2) of this Ordinance.

(3) **TIME LIMITS.**

All permits, except conditional use permits and stipulated shoreland permits, shall be granted or denied in writing, within thirty (30) days after application, by the Department of Planning and Development. All stipulated shoreland permits shall be granted or denied within sixty (60) days after application, unless the time is extended by mutual agreement. The applicant shall post any permit granted in a conspicuous place at the site. All zoning permits shall expire no more than one hundred eighty (180) days after issuance. The permit may be extended for a maximum of one hundred eighty (180) days for good and sufficient cause. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

(4) **FOUNDATION SURVEY REQUIREMENTS.**

- (a) Except as provided for in subsection (b), any person erecting, moving, enlarging or reconstructing a structure, which, under this Ordinance, requires a zoning permit shall upon completion of the construction of footings, concrete slab or other foundations, submit to the Department of Planning and Development a survey prepared by a registered land surveyor showing the locations, boundaries, dimensions, elevations and size of the following: The boundaries of the lot, all existing structures (including foundations) and their relationship to the lot lines. The Village Director of Planning and Development shall compare the location of all new or extended foundations with the location of all proposed construction activity reported on the permit application. No further construction may commence unless the Director of Planning and Development shall find that the foundation location is consistent with the permit as issued and shall so certify. Failure to comply with the requirements of this section shall be grounds for the issuance of a citation pursuant to Section ZN 6.03(3) of this Ordinance, and attendant penalties.
- (b) A foundation survey shall not be required for the construction of any structure located at least two hundred (200) feet from any property line and two hundred (200) feet from any navigable body of water.



- (c) In addition to the exception provided for in subsection(b) above, the foundation survey requirements may be waived at the option of the permit applicant, for any construction, except for construction of a principal structure and for the construction of a new foundation under an existing principal structure, provided that the permit applicant shall file and record with the Department of Planning and Development and with the Kenosha County Register of Deeds a "Waiver of Liability of Foundation Survey" which shall be binding on the permit applicant and his estate and which shall forewarn future owners of said parcel of the lack of a certified foundation survey verifying that structures located on the parcel are in conformity to the ordinance and further, that if any error is made on the placement of any construction or structure, or if a zoning violation is later discovered, the applicant and his estate shall move the construction or structure so as to conform with the zoning regulations effective on the date the permit was issued and shall further pay all consequent damages. Structures illegally located on a parcel are in violation of the Village Zoning Ordinance. Applicable statute of limitations for prosecution of such violations shall not begin to run until such time as a certified survey has been filed with the Department of Planning and Development and the Kenosha County Register of Deeds indicating the location of the structures on the parcel.

(5) **CERTIFICATE OF COMPLIANCE.**

A certificate of compliance shall be required in the following instances:

- (a) No vacant land shall be occupied, used, developed or substantially improved; and no building hereafter erected, altered or moved shall be occupied; and no floodland shall be filled, excavated, or developed; and no non-conforming use shall be maintained, renewed or changed until a certificate of compliance shall have been issued by the Village Department of Planning and Development. Such permit shall show that the building or premises or part thereof and the proposed use thereof are in conformity with the provisions of the ordinance. Such permit shall be issued only when the building or premises and the proposed use thereof conform with all requirements of this Ordinance.
- (b) No land within the FPO Floodplain Overlay District shall be developed, occupied or used, and no structure hereafter erected, altered, or moved shall be occupied until the applicant submits to the Village Department of Planning and Development a certification by a registered professional engineer or land surveyor that the floodland regulations set forth in this Ordinance have been fully complied with. Such certification shall include the ground elevations of any site which has been filled; and the first floor and basement floor elevations of any structures permitted by this Ordinance and erected on the site.

- (c) Upon the establishment of a new business or industry in an existing structure as set forth in Section ZN 2.02(1)(b) of this Ordinance.

Under the above circumstances, no person, firm or corporation shall occupy, use or cause to be used, any land or building as set forth above until the Planning and Development Director has issued a written certificate of compliance.

(6) **OTHER PERMITS.**

It is the responsibility of a permit applicant to secure all other necessary permits required by any federal, state, or local agency. This includes, but is not limited to, a water use permit pursuant to Chapters 30 and 31 of the Wisconsin Statutes or a wetland fill permit required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344, as amended.

(7) **DISCLAIMER.**

All permits issued by the Department of Planning and Development shall note the following disclaimer therein:

"Each applicant for a Zoning Permit is charged with knowledge of the Village of Somers General Zoning and Shoreland/Floodplain Zoning Ordinance. Copies of the text of this Ordinance or portions thereof and copies of the official zoning maps are available for sale, copying or inspection upon request. Any statement made, assurance given or permit erroneously issued contrary to this Ordinance is null and void."

(8) **FEES.**

- (a) All persons, firms, or corporations performing work which by this Ordinance requires the issuance of a permit shall pay a fee for such permit to the Village of Somers Department of Planning and Development to help defray the cost of administration, investigation, advertising, and processing of permits and variances.

- (b) The Village shall be exempt from payment of any of the above fees in subsection (a).

(9) **TRIPLE FEES.**

A triple fee shall be charged by the administrator if construction, as defined in this Ordinance, is started before a permit is applied for and issued. Such triple fees shall not release the applicant from full compliance with this Ordinance nor from prosecution for violation of this Ordinance.

(10) **DISPOSITION OF FEES.**

- (a) All fees collected by the Village Department of Planning and Development for permits issued through that office shall be retained by the Village of Somers. Village employees shall not be eligible to retain any of the fees collected.



## **CHAPTER 3**

### **GENERAL LAND USE REGULATIONS**

ZN 3.01	General Provisions
ZN 3.02	Use Regulations
ZN 3.03	Home Occupations and Professional Home Offices
ZN 3.04	Site Regulations
ZN 3.05	Performance Standards
ZN 3.06	Traffic, Parking and Access
ZN 3.07	Signs
ZN 3.08	Fences
ZN 3.09	Swimming Pools
ZN 3.10	Shoreland Regulations
ZN 3.11	Mobile Towner Siting Regulations
ZN 3.12	Small Wind Energy Systems
ZN 3.13	Large Wind Energy Systems
ZN 3.14	Accessory Building Regulations
ZN 3.15	Decks and Patios
ZN 3.16	Accessory Living Unit
ZN 3.17	Temporary Uses
ZN 3.18	Lighting
ZN 3.19	Landscaping



## **ZN 3.01 GENERAL PROVISIONS.**

### **(1) INTRODUCTION.**

The proper regulation of the use of certain structures, lands and waters, only through the use of the zoning districts contained within this Ordinance is neither feasible nor adequate. Therefore, the following regulations, which shall be applied in addition to the district regulations, are necessary to accomplish the intent of this Ordinance.

### **(2) COMPLIANCE.**

No structure, land, water, or air shall hereafter be used or developed and no structure or part thereof shall hereafter be located, erected, moved, placed, reconstructed, extended, enlarged, converted, demolished, or structurally altered without full compliance with the provisions of this Ordinance and all other applicable local, county and state regulations.

## **ZN 3.02 USE REGULATIONS.**

### **(1) USES ALLOWED.**

Only the following uses, structures and their essential services shall be allowed in any district:

- (a) Principal uses and structures specified for a district and permitted as a matter of right.
- (b) Accessory uses and structures are permitted as a matter of right in any district but not until their principal structure is present or under construction. Uses accessory to residential district developments shall not involve the conduct of any business, trade or industry except as may be provided in Section ZN 3.03(1) and (2) of this Ordinance. No accessory structure shall be occupied as a separate dwelling unit. Accessory uses and structures are further regulated by Section ZN 3.02(2) of this Ordinance.
- (c) Conditional uses, as defined in Section ZN 5.03(1) and their accessory uses may be permitted only in specified districts after review, public hearing and approval by the Village Board in accordance with procedures and standards established in this Ordinance.
- (d) Stipulated Shoreland Uses, as may be provided for Section ZN 3.10 of this Ordinance.
- (e) Temporary uses and structures, as may be provided for under this Ordinance.

### **(2) SITE PLAN REVIEW.**

- (a) Purpose and Intent. The purpose of this section is to provide an integrated approach toward site and building development and a process to review and approve Site Plans for land uses which are subject to a Zoning Permit for any principal use or conditional use in any district except the A-1, A-2 and A-4 agricultural districts, the R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 residential

districts. The intent is to promote compatible development, stability of property values, and to prevent impairment or depreciation of property values of development, changes or additions to existing structures and redevelopment.

(b) Process and Submittals. The Department of Planning and shall review and approve the following plans as applicable:

- 1 Building Plan
- 2 Site Plan
- 3 Parking Plan
- 4 Landscape Plan
- 5 Lighting Plan (including photometric)
- 6 Stormwater Management Plan
- 7 Utility Plan
- 8 Traffic Impact Analysis (TIA) Plan
- 9 Natural Resources Protection Plan

Such plans are necessary to identify existing and proposed structures, architectural plans, building construction plans, neighboring uses, parking areas, driveway locations, loading and unloading, highway access, traffic generation and circulation, drainage, sewerage and water systems, location and type of lighting, type, size and location of signs, utilization of landscaping and open space, emergency vehicle accessibility, and the proposed operation for all development classified as a principal or accessory use.

(c) Standards and Principles. The following principals are established to implement and define the purpose and intents set forth above.

- 1 Building Design and Architecture. No building shall be permitted in which the design or exterior appearance is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards is so identical with those adjoining as to create excessive monotony or drabness.

Buildings shall avoid a “box like” appearance having horizontal and vertical articulation. Integration of features like cornices, staggered parapet walls, wall offsets, recessed or extended windows and entries, covered arcades or similar design elements shall be used. Building additions shall be designed to be consistent with the existing building(s) in conjunction with the principles of this section.



- 2 Building Facades. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties by a mixture of materials, banding, textures and colors. Buildings shall have four-sided architecture.
- 3 Building Materials. A minimum of fifty (50%) percent of a facade facing an existing or future street or a facade that is visible by the general public shall be finished with a combination of windows, brick, native or manufactured stone, textured concrete block, decorative masonry material or decorative precast concrete panels. Smooth face concrete block is only permitted as an accent band. Additions to existing buildings shall be permitted to maintain the appearance and materials of the existing facade so as to maintain a consistent appearance.
- 4 Building Scale and Mass. The relative proportion of a building to its neighboring buildings, to pedestrians and observers, or to other existing buildings shall be maintained or enhanced when new buildings are built or when existing buildings are remodeled or altered.
- 5 Building Rooflines and Roof Shapes. The visual continuity of roofs and their contributing elements (parapet walls, coping, and cornices) shall be maintained in building development and redevelopment.
- 6 Equipment and Mechanicals. Roof-mounted equipment and mechanicals shall be screened from public view, when viewed from grade level as measured from the lot lines and abutting street centerlines, in a manner matching the architecture style and materials of the building. A professional line-of-sight study may be required verifying this provision. Roof-mounted equipment and mechanicals added to an existing building shall comply with this provision. Roof drains, leaders and downspouts shall be integrated into the exterior design of the building.

Ground equipment and mechanicals shall be screened from public view with a combination of solid fencing or walls and landscaping as deemed appropriate.
- 7 Colors. Since the selection of building colors has a significant impact upon the public and neighboring properties, color shall be selected in general harmony with existing neighborhood buildings.
  - a Frequent changes in material or color shall be avoided.
  - b The use of bold, primary colors should not be used for building facades except for accent elements.
  - c The use of bright colors, including, but not limited to, fluorescent, “hot” and “dayglow” colors is prohibited.

- 8 Location and Orientation. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
  - 9 Erosion Control and Stormwater. Appropriate erosion control and stormwater management measures shall be utilized in all new development. Buildings and uses shall maintain existing topography, drainage patterns, and vegetative cover insofar as is practical. Stormwater management ponds and open drainage ways shall be designed to be visual amenities. The Department of Planning and Development or the Plan Commission may require that drainage easements be executed.
  - 10 Traffic Circulation. Buildings and uses shall provide for safe traffic circulation and safe driveway locations. Clear and identifiable patterns of circulation shall be designed to minimize conflicts between pedestrian, automobile and truck traffic.
  - 11 Site Access and Parking. Buildings and uses shall provide adequate parking and loading areas. No loading dock or overhead doors shall face upon a street right-of-way without approval of the Department of Planning and Development. Site cross-access lanes and associated easements shall be provided where deemed necessary by the Department of Planning and Development and shall be a minimum of twenty-four (24) feet wide. Subject to the requirements as set forth in Section ZN 3.06 Dimensions of Parking and Section ZN 3.06(3) Parking Requirements.
  - 12 Public Services and Utilities. Buildings and uses shall be provided with adequate public services as approved by the appropriate utility.
  - 13 Lighting. Subject to the requirements as set forth in Section ZN 3.18(1).
  - 14 Buffers and Screening. Appropriate buffers shall be provided between dissimilar uses. Dumpsters and other trash receptacles shall be screened from view with solid fencing or walls as deemed appropriate by the Department of Planning and Development.
  - 15 Landscaping and Open Space. Buildings and uses shall make appropriate use of open spaces. Subject to the requirements as set forth in Section ZN 3.19. The development applicant shall commit, in writing, to maintain all required landscaping.
- (d) Appeals. Any person or persons aggrieved by any decisions of the Zoning Director related to plan review may appeal the decision to the Zoning Board of Review pursuant to Section ZN 7.02 of this Ordinance.

### **ZN 3.03 HOME OCCUPATIONS AND PROFESSIONAL HOME OFFICES.**

**(1) REQUIREMENTS.**

Customary home occupations and professional home offices may be established in a dwelling or accessory buildings only in those districts which provide for such home occupations and professions. In such districts, the following requirements shall apply, in addition to all other applicable requirements of this Ordinance for the districts in which such uses are located:

- (a) The home occupation or profession shall be clearly incidental to the residential use of the dwelling and parcel and shall not change the essential residential character of the dwelling and parcel so that a typical neighbor would not be aware of such use other than for a permitted sign.
- (b) Use of the dwelling and parcel for this purpose shall be limited to twenty-five (25%) percent of one (1) floor of either the dwelling or an accessory building.
- (c) No accessory buildings shall be used in connection with the home occupation except as provided in section (b).
- (d) No outside storage shall be used in connection with the home occupation.
- (e) No chemical, mechanical or electrical equipment that is not normally a part of domestic or household equipment shall be used primarily for commercial purposes, with the exception of medical or dental equipment used for professional purposes.
- (f) Machinery that causes noises or other interference in radio or television reception shall be prohibited.
- (g) No internal or external alterations inconsistent with the residential use of the building shall be permitted.
- (h) Residents of the dwelling only may be engaged in the home occupation. In the case of professional offices, no more than one (1) non-resident may be employed on the premises.
- (i) No display of products shall be visible from the street and only articles made on the premises may be sold on the premises.
- (j) Instruction in music, dancing and similar subjects shall be limited to two (2) students at a time.
- (k) No more than three (3) vehicles used primarily as passenger vehicles only shall be permitted in connection with the conduct of the customary home occupation.
- (l) Signs shall be subject to regulations in Section ZN 3.07(1) through Section ZN 3.07(8), specifically Section ZN 3.07(5) of this Ordinance.
- (m) Subject to the issuance of a Certificate of Compliance as set forth in Section ZN 2.02(5) of this Ordinance.

(2) **PERMITTED AND PROHIBITED HOME OCCUPATIONS.**

(a) Examples of permitted home occupations include, but are not limited to:

- 1 Artist Studio
- 2 Computer services including desk top publishing and word processing
- 3 Dressmaker or seamstress
- 4 Family day care with eight (8) or fewer children or adults
- 5 Gunsmith for service and repair of firearms licensed by the Bureau of Alcohol, Tobacco and Firearms, provided no discharging, loading of bullets, preparation of ammunition, sale, trade, lease or rental of firearms and/or ammunition takes place within the premises
- 6 Offices for construction businesses (no equipment or material storage)
- 7 Office for accountant, architect, attorney, broker, engineer, financial advisor, insurance agent, interior designer, land surveyor, marketing analyst, telemarketing or transcriber
- 8 Taxidermy

(b) Examples of prohibited home occupations include, but are not limited to:

- 1 Auto body repair or maintenance
- 2 Auto or small engine repair or maintenance
- 3 Catering and food services
- 4 Construction and contractors' services
- 5 Firearms and/or ammunition sales, trade, lease or rental
- 6 Landscaping and lawn services
- 7 Tattoo and body piercing
- 8 Tree services
- 9 Welding and machining

## **ZN 3.04 SITE REGULATIONS.**

### **(1) STRUCTURES PER LOT; PUBLIC ACCESS.**

All structures shall be located on a lot; and, except as otherwise provided in this Ordinance, in the A-1, A-2, A-4, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8 and C-2 districts, only one (1) principal structure shall be located, erected or moved onto a lot. The number, size and type of accessory structures shall be governed as specified in each district and Section ZN 3.14 of this Ordinance. All lots shall abut upon a public street, easement of record or other officially approved means of access and no zoning permit shall be issued for a lot which abuts a public street dedicated to only a portion of its proposed width and located on that side thereof from which the required dedication has not been secured.

### **(2) SANITARY WIDTH REQUIREMENTS.**

Except as provided for in Section ZN 3.04(3), lots serviced by a public sanitary sewer system shall have a minimum frontage of seventy-five (75) feet in width at the front lot line except in the R-6 Urban Single-Family Residential District and the R-12 Mobile Home District, and except as provided for in Section ZN 3.04(3) the width of all lots located on land with soils suitable for the use of an on-site soil absorption sewage disposal system shall not be less than one hundred-fifty (150) feet and the area of all such lots shall not be less than forty thousand (40,000) square feet per dwelling unit to be constructed on the lot. Such on-site soil absorption sewage disposal systems shall be designated in accordance with all state and local laws, regulations and ordinances. On-site sewage disposal absorption systems shall be located on the same parcel of land as the building or buildings which are serviced by it.

### **(3) LOTS ABUTTING CUL-DE-SACS.**

All lots abutting cul-de-sacs and curves may reduce the frontage on a public street or other officially approved means of access as outlined in each district ONLY.

### **(4) MULTIPLE DISTRICT LOTS.**

Any lot or parcel containing more than one (1) zoning district shall be considered to be entirely within the least restrictive district as defined in this Ordinance provided, however, that in no case shall a district boundary be relocated a distance greater than seventy-five (75) feet.

### **(5) STORAGE AND DISCHARGE PROHIBITED.**

No waste material such as garbage, rubbish, gasoline, fuel oil, flammables, soils, tars, chemicals, greases, industrial or agricultural waste, or any other materials of such nature, quantity, obnoxiousness, toxicity, or temperature so as to contaminate, pollute, or harm the waters shall be so located, stored, or discharged in a way that would be likely to run off, seep, or wash into surface or ground waters. Nor shall any such material be allowed to accumulate on any lot of record so as to be unsightly, dangerous or so as to constitute a nuisance. No gasoline storage tanks shall be permitted in a residential district and no more than two (2) cords of firewood may be stored on any parcel located in the R-2 through R-12 Districts.

### **(6) HOLDING TANKS.**

The use of holding tanks shall be regulated by the Kenosha County Sanitary Ordinance. In the case of conflict between this Ordinance and the Sanitary Ordinance, the Sanitary Ordinance shall control.

(7) **REDUCTION OR JOINT USE.**

No lot, yard, parking area, building area, sanitary sewage disposal area, or other space shall be reduced in area or dimensions so as not to meet the provisions of this Ordinance. No part of any lot, yard, parking area, sanitary sewage disposal area, or other space required for a structure or use shall be used to meet the requirements for any other structure or use.

(8) **LOTS ABUTTING MORE RESTRICTIVE DISTRICTS.**

Lots which abut upon more restrictive districts shall provide side and rear yards not less than those required in the more restrictive abutting district. The street yard on the less restrictive district shall be modified for a distance of not more than seventy-five (75) feet from the district boundary line so as to equal the average of the street yards required in each district.

(9) **BACKLOT DEVELOPMENT PROHIBITED.**

Backlot development or lake lot pyramiding on lakes is prohibited. Lots abutting a lake which is zoned for single-family residential development shall be used on a continuing basis for only one (1) family. The purchase of a single lot or outlot abutting a lake shall not be used as access for subdivisions and other developments located away from the lake.

### **ZN 3.05 PERFORMANCE STANDARDS.**

(1) **INTENT.**

Sections ZN 4.02 through Section ZN 4.08 of this Ordinance permits specific uses in specific districts. It is the intent of the Village Board of Trustees that the following performance standards designed to limit, restrict and prohibit the effects of those uses outside of their premises or district be imposed upon all parcels falling within the jurisdiction of this Ordinance so as to protect the quality of the environment, the safety and health of the citizens of the Village of Somers, and to alleviate, and where possible, eliminate nuisances. It is the further intent of the Village Board of Trustees that all structures, lands, air and waters shall hereafter, in addition to their use, site, shoreland and sanitary regulations, comply with the following performance standards, and all applicable standards set forth by the Wisconsin Department of Industry, Labor and Human Relations, Wisconsin Department of Natural Resources, and the Wisconsin Administrative Code.

(2) **PROCEDURE.**

- (a) Prior to construction and operation. Any application for a permit under this Ordinance or any use subject to the regulations and standards set forth herein shall be accompanied by a sworn statement by the owner of the subject property that said property and use will be operated in accordance with the performance standards hereinafter set forth.
- (b) Continued compliance. Continued compliance with the regulations and standards heretofore set forth in this section is required and enforcement of such continued compliance with these regulations and standards shall be a duty of the Department of Planning and Development.

- (c) Determination of violation. The Department of Planning and Development shall investigate any reported violation of the hereinafter noted regulations and standards and, if there is reasonable grounds for the same, shall proceed in accordance with paragraph (d) below and Section ZN 6.02 of this Ordinance.
- (d) Termination of violation. All violations, as ascertained in accordance with paragraph (c) above shall be terminated within thirty (30) days after notice of such violation and in the event that said violation is not terminated, it shall be deemed a separate violation for each date of its existence and subject to fines as set forth in this Ordinance, except that certain uses established before the effective date of this Ordinance and non-conforming as to the regulations and standards hereinafter set forth shall be given not more than one hundred eighty (180) days in which to conform therewith after the determination of the existence of such violation and in the event said violation is not terminated, it shall be deemed a separate violation for each day it existed since the effective date of this Ordinance.

**(3) REGULATION OF NUISANCE ELEMENTS.**

- (a) No land or building in any district shall be operated in such a manner so as to create any dangerous, injurious, noxious or otherwise objectionable fire, explosive or other hazard; noise or vibration, smoke, dust, dirt or other form of air pollution; water pollution; electrical, radioactive or other disturbances; glare; or other substance, condition or element (referred to herein as "dangerous or objectionable elements") in such amount as to adversely affect the surrounding area or premises; provided that any use permitted by this Ordinance may be undertaken and maintained if it conforms to the regulations of this subsection limiting dangerous and objectionable elements at the specified point or points of the determination of their existence.
- (b) The determination of the existence of any dangerous and objectionable elements shall be made at:
  - 1 The point or points where such elements shall be most apparent for fire and explosion hazards, for radioactivity and electrical disturbances, for smoke and other forms of air pollution.
  - 2 The property lines of the use creating such elements for noise, vibration, glare and odors.

**(4) PERFORMANCE STANDARDS TO BE ENFORCED.**

- (a) Air pollution. No activity shall emit any fly ash, dust, fumes, vapors, smoke, mists or gases in such quantities as to cause soiling or danger to the health of person, animals, vegetation or other forms of property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas nor any color visible smoke equal to or darker than number two (2) on the Ringleman Chart described in Wis. Admin. Code §NR 431 and NR 439 and amendments thereto.

- (b) Electrical, radioactive or other disturbances. No activity shall emit electrical, radioactive or other disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises. All applicable federal and state regulations shall be complied with.
- (c) Fire and explosive hazards. All activities involving the manufacturing, utilization, processing or storage of flammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion 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. The above ground storage capacity of materials that produce flammable or explosive vapors shall not exceed the following:

<u>Closed Cup Flash Point</u>	<u>Gallons</u>
Over 187°F	400,000
105°F to 187°F	200,000
Below 105°F	100,000

- (d) Glare and heat. No activity shall emit glare or heat that is visible or measurable at the boundaries of the lot on which the principle use is located. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.
- (e) Noise. At the points of measurement specified in Section ZN 3.05(3)(b)2, the maximum sound pressure level radiated in each standard octave band by any use or facility (other than transportation facilities or temporary construction work) shall not exceed the values for octave bands lying within the several frequency limits given in Table I after applying the corrections shown in Table II. The sound pressure level shall be measured with a Sound Level Meter and associated Octave Band Analyzer conforming to standards prescribed by the American Standards Association, Inc., New York, N.Y. (American Standard Sound Level Meters for Measurement of Noise and Other Sounds, 224.3-1944, American Standards Association, Inc., New York, N.Y., and American Standard Specification for an Octave-Band Filter Set for the Analysis of Noise and Other Sounds, 224.10-1953, or latest approved revision thereof, American Standards Association, Inc., New York, N.Y. shall be used.)



Table I

<u>Frequency Containing Standard Octave Bands in Cycles Per Second</u>	<u>Octave Bank Sound Pressure Level of Decibels Re 0.0002 dyne/cm</u>
20-75	65
75-150	55
150-300	50
300-600	45
600-1200	40
1200-2400	40
Above 2400	35

If the noise is not smooth and continuous and is not radiated between the hours of 10:00 p.m. and 7:00 a.m. one (1) or more of the corrections in Table II shall be applied to the octave band levels given in Table I.

Table II

<u>Type of Location of Operation or Character of Noise</u>	<u>Correction In Decibels</u>
1. Daytime operation only	5
2. Noise source operates less than	*
a. 20% of any 1 hour period	5
b. 5% of any 1 hour period	10
3. Noise of impulsive character (hammering, etc)	-5
4. Noise of periodic character (hum, screech, etc)	-5
5. Property is located in any M-District and is not within 20 feet of any R-District	10
*Apply one of these corrections only	

- (f) Odors. Except in the A-1, A-2 and A-4 Districts, no activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises. The guide for determining odor measurement and control shall be Wis. Admin. Code §NR 129 and amendments thereto.

- (g) Erodible land regulations. In addition to any other applicable use, site or sanitary regulation, the following organic and sandy soils listed below and any other soils having an erosion factor of three (3) shall not be used for crop production or grazing unless such lands make use of contour cropping practices or strip cropping practices or crop terraces.

133 - BmB, BmC2	416 - Ry
316 - BmB, BmC2	417 - CrD2, CrE
359 - MxD2	419 - SfB
414 - BmB, BmC2	451 - Ht

- (h) Soil capability regulations. In addition to any other applicable use, site, or sanitary regulation, the following restrictions or regulations shall apply to the following soils as shown on the Operational Soil Survey Maps prepared by the USDA Natural Resources Conservation Service for the Southeastern Wisconsin Regional Planning Commission and which are on file with the Department of Planning and Development;

Because of their erodibility and very low agricultural capabilities, tillage is permitted on the following rough, broken, sandy, stony or escarpment soils only when conducted in accordance with sound soil conservation practices and after review by the Natural Resources Conservation Service:

75 - CcB, CrC, CrD2, CrE	417 - CrD2, CrE
282 - CeB, CrC, CrD2, CrE	419 - SfB
416 - Ry	

Farm drainage systems may be installed on the following soils, which soils are subject to a flooding hazard and which have generally unsuitable soil characteristics for an operative drainage system, only if installed in accordance with sound soil conservation practices and after review by the Natural Resources Conservation Service:

4 - Mf	11 - Am
5W - Sg	11W - Ww
7 - Dh	54 - Lp
10 - Am	419 - SfB
10W - Ww	452 - Ac

Because of very severe limitations for pasturing, grazing is permitted on the following soils when conducted in accordance with sound soil conservation practices and after review by the Natural Resources Conservation Service:

4 - Mf	419 - SfB
416 - Ry	462 - Ht

- (i) Steep land regulations. In addition to any other applicable use, site, shoreland, or sanitary regulation, the following restrictions and regulations shall apply to all lands having slopes of

twelve (12%) percent or greater (see illustration #1) as shown on the Operational Soil Survey Maps prepared by the USDA Natural Resources Conservation Service in cooperation with the Southeastern Wisconsin Regional Planning Commission and which are on file with the Department of Planning and Development:

- 1 Tillage and grazing of lands with slopes of twelve (12%) percent or greater shall be permitted only if such tilling and grazing make use of contour cropping practices, strip cropping practices or cropping terraces. Spreading the manure or fertilizer on frozen ground and establishment of feed lots shall be prohibited when such practice would cause direct run off of pollutants into a drainage way or water course.
- 2 Tree cutting and shrubbery clearing for the purpose of changing land use from wildlife or wood lot management on lands with slopes of twelve (12%) percent or greater shall be conducted so as to minimize erosion and sedimentation and promote the preservation of scenic beauty.

- (j) Vibrations. No activity in any district except the M-1, M-2 and M-3 districts shall emit vibrations which are discernible without instruments outside its premises. No activity in the M-1, M-2 or M-3 districts shall emit vibrations which exceed the following displacement measured with a 3-component measuring system:

Frequency (Cycles per Second)	Displacement (Inches)	
	Outside the Premises	Outside the District
0 to 10	.0020	.0004
10 to 20	.0010	.0002
20 to 30	.0006	.0001
30 to 40	.0004	.0001
40 to 50	.0003	.0001
50 and over	.0002	.0001

- (k) 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 would be likely to 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 discharge any liquid, gaseous or solid materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Wis. Admin. Code §NR 102 and amendments thereto for all navigable waters in the Village.
- (l) Floodproofing. Where floodproofing by means of elevating on fill is deemed inappropriate or impractical, and where floodproofing by means other than filling is permitted, floodproofing measures shall be in accordance with the following:
- 1 Floodproofing measures shall be designed to:
    - a Withstand the flood pressures, depths, velocities, uplift and impact forces, and other factors associated with the one hundred (100) year recurrence interval flood; and
    - b Assure protection to an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood; and
    - c Provide anchorage of structures to foundations to resist flotation and lateral movement; and
    - d Insure that the structural walls and floors are watertight and completely dry without human intervention during flooding to a point at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood.
    - e Minimize or eliminate discharges into flood waters.
  - 2 No permit or variance shall be issued until the applicant submits a plan or document certified by a registered professional engineer or architect certifying that the floodproofing measures are adequately designed to protect the structure or development to a point at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood for the particular area and submits a FEMA Floodproofing Certificate.
  - 3 Floodproofing measures may include, but are not limited to:
    - a Reinforcement of walls and floors to resist rupture or collapse caused by water pressure or floating debris;
    - b Addition of mass or weight to structures to prevent flotation;
    - c Placement of essential utilities above the flood protection elevation;
    - d Surface subsurface drainage systems, including pumping facilities, to relieve external foundation wall and basement floor pressures;

- e Construction of water supply wells, and waste treatment and collection systems to prevent the infiltration of floodwaters into such systems;
  - f Cutoff valves on sewer lines and the elimination of gravity flow basement drains; and/or
  - g The construction of permanent watertight bulkheads, erection of permanent watertight shutters and doors, and installation of wire reinforced glass or glass block for windows.
- 4 For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan that is certified by a registered professional engineer and meets or exceeds the following standards:
- a A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding; and
  - b The bottom of all openings shall be no higher than one (1) foot above grade; and
  - c Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters; and
  - d Submits a FEMA Floodproofing Certificate

### **ZN 3.06 TRAFFIC, PARKING AND ACCESS.**

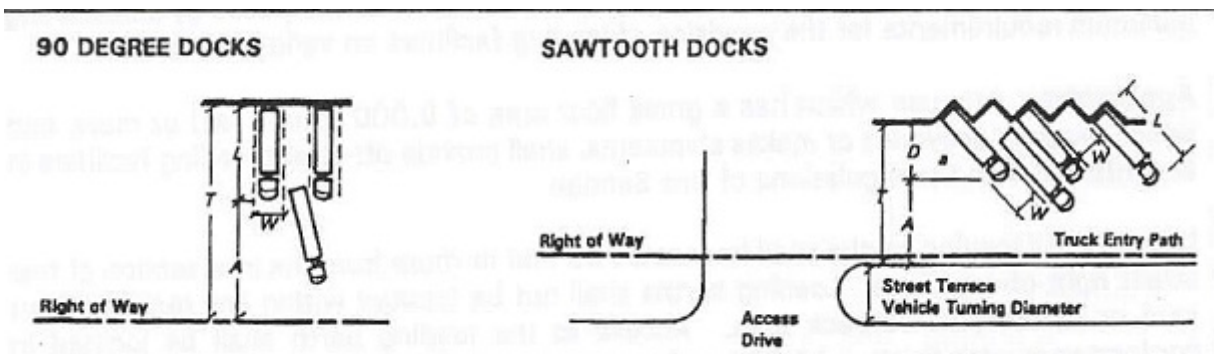
**(1) TRAFFIC VISIBILITY (Vision Triangle).**

- (a) No obstructions, such as structures, fences, parking or vegetation shall be permitted in any business, manufacturing or institutional district between the heights of two (2) feet and ten (10) feet above the plane through the centerline of the road within the triangular space formed by any two (2) existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines located a minimum of fifteen (15) feet from the road right-of-way. (See illustration No. 2).
- (b) In the case of any federal, state or county highway or town road intersection with any other federal, state or county highway or town road or railways, the corner cutoff distances establishing the triangular vision clearance space shall be increased to fifty (50) feet.

**(2) OFF-STREET LOADING STANDARD.**

- (a) Purpose. The purpose of this section is to prevent congestion of public rights-of-way and private lots so as to promote the safety and general welfare of the public by establishing minimum requirements for the provision of loading facilities on various sites.
- (b) Applicability. Any use which has a gross floor area of six thousand (6,000) square feet or more and which requires deliveries or makes shipments, shall provide off-street loading facilities in accordance with the regulations of this section.
- (c) Location. Loading berths shall not face upon any public right-of-way without approval by the Department of Planning and Development. If approval is obtained, a twenty (20) foot landscape buffer shall be required. Access to the loading berth shall be located in conformance with the table below. All loading areas shall be located on private lands and shall not be located within, or so as to interfere with, any public right-of-way.
- (d) Size of Loading Area. All required loading berths shall have a minimum vertical clearance of fourteen (14) feet. The following standards shall be the minimum used to design loading areas:

Loading Standards						
Design Vehicle	Length in Feet (L)	Dock Angle (a)	Clearance in Feet (D)	Berth Width in Feet (W)	Apron Space in Feet (A)	Total Offset in Feet (T)
WB-40	50	90°	50	10	63	113
				12	63	113
				14	63	113
		60°	44	10	46	90
				12	40	84
				14	35	79
		45°	36	10	37	73
				12	32	68
				14	29	65
WB-50	55	90°	55	10	77	132
				12	77	132
				14	77	132
		60°	48	10	55	103
				12	51	99
				14	46	94
		45°	39	10	45	84
				12	40	79
				14	37	76



- (e) Access to Loading Area. Each loading berth shall be located so as to facilitate access to a public street or alley, and shall not interfere with other vehicular or pedestrian traffic, and shall not interfere with the function of parking areas. In no instance shall loading areas rely on backing movements into public right-of-way.
- (f) Surfacing and Marking. All required loading areas shall be paved and maintained in a dust free condition at all times. Said surface shall be marked in a manner which clearly indicates required loading areas.
- (g) Use of Required Loading Areas. The use of all required loading areas shall be limited to the loading and unloading of vehicles. Said area shall not be used to provide minimum required parking spaces.
- (h) Lighting. All loading areas shall be lit so as to comply with Section ZN 3.05 Exterior Lighting Standards.
- (i) Signage. All signage located within, or related to, loading areas shall comply with the requirements of Section ZN 3.07 Signs and the requirements of Section ZN 3.02(2) Site Plan Review.
- (j) Screening. All loading areas shall be screened from public view by use of architectural walls, fences, berms, and/or landscaping. The method of screening shall be reviewed and approved by the Department of Planning and Development.
- (k) Depiction on Required Site Plan. Any and all required loading areas proposed to be located on the property being developed or redeveloped shall be depicted as to their location and configuration on the site plan required for the development of the property.
- (l) Loading Requirements.
  - 1 In all districts adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public rights-of-way and so that all vehicles need not back onto any public rights-of-way.
  - 2 On every lot on which a business, trade, or industrial use is hereafter established, space with access to a public street or alley shall be provided as indicated below for the loading and unloading of vehicles off the public right-of-way.
    - a Businesses. One (1) space of at least 10 x 25 feet for each three thousand (3,000) square feet of floor area or part thereof.
    - b Wholesale and Industrial. One (1) space of at least 10x50 feet for each ten thousand (10,000) square feet of floor area or part thereof.



- c Bus and Truck Terminals. Sufficient space to accommodate the maximum number of buses or trucks to be stored or to be loaded or unloaded at the terminal at any one time.

(3) **PARKING REQUIREMENTS.**

In all districts and in connection with every use, there shall be provided at the time any use or building is erected, enlarged, extended, or increased off-street parking stalls for all vehicles in accordance with the following:

- (a) Number of Off-Street Parking Stalls.

**Residential Uses**

Single-Family dwellings including manufactured and mobile homes	2 spaces per dwelling
Two-Family Dwellings	4 spaces for each bldg.
Multiple-Family Dwellings	2 spaces for one and two-bedroom units; 2.5 spaces for three or more bedroom units; plus one space for every eight units for guest parking
Assisted Living Arrangements/Community Based Residential Facilities	1 space for each six patient beds, plus 1 space for each employee on the largest shift, plus 1 space per staff member and visiting doctor

<b><u>Commercial Uses</u></b>	<b><u>1 Space/Sq. Ft.</u></b>	<b><u>Space/Employee</u></b>	<b><u>Special Criteria</u></b>
Automatic Teller Machine			2 per machine
Auto Part Store	400	Largest work shift	
Automotive Body Repair or Service	250	Full-time employee	2 per service bay
Automobile Sales or Rental, Farm Equipment Sales or Service	100		1 per 500 outdoor display area
Bank/Financial Institutions	300		6 stacking/drive-up

Brew/Tavern/Coffee Shop	100	Largest work shift (2)	
Barber/Beauty Shop		Full-time employee (2)	1 per chair
Bed and Breakfast		2/owner or operator	1 per bedroom rented
Bookstore	300	Full-time employee	
Car Wash (self-serve)		2 per bay	2 stacking for each bay
Car Wash (automatic)		1 per bay	5 stacking before & 2 stacking after each bay
Contractors Yard	1,000		1 per company vehicle
Convenience Store	200		
Day Care Center		Largest work shift	1 for every six children & 14' safety zone
Physical Fitness Facilities	100	Largest work shift	
Funeral Home	500		
Garden Centers, including Greenhouse or Nursery	200	Largest work shift	2 for each 3 employees
Gas Station/No Store		Largest work shift	No less than 3
Gas Station/Store	200	Largest work shift	
Gas Station/Store & Restaurant	150	Largest work shift	8 stacking
Greenhouse or Nursery	150		1 per 500 outside sales & display area
Grocery/Retail Store	200 (<50,000) 250 (50,000-100,000)		
Hotel/Motel		Largest work shift	1 per guest room

Medical, Dental and Other Professional Health Service Offices	250		
Night Club	400		
Professional Offices	400		
Restaurant, Standard	100	Largest work shift	1 per 3 seats at maximum capacity
Restaurant, Drive-in or Fast Food	50	Largest work shift	8 stacking & no <50 for drive-in
Restaurant, Pick-up/ Takeout	50	Largest work shift	No fewer than 8 spaces
Self-Storage/Mini-Warehouse		Full-time employee	1 per 10 storage units
Department Stores/ Shopping Centers	200 (<50,000) 250 (50,000-1,000,000) 300 (>1,000,000)		
Veterinary Clinic		Full-time employee	4 per doctor
Zoo/Botanical Gardens	2,000 lot area		

<b><u>Industrial Uses</u></b>	<b><u>Space/Sq. Ft.</u></b>	<b><u>Space/Employee</u></b>	<b><u>Special Criteria</u></b>
-------------------------------	-----------------------------	------------------------------	--------------------------------

Contractors Yard	1,000		1 per fleet vehicle
Manufacturing		Largest work shift	plus 5
Warehousing/Distribution Center	2,000	Full-time employee (2)	

**Institutional Uses**

Administrative Government Center	300		
Cemetery		Full-time employee	

Colleges & High Schools		Largest work shift	1 per 5 students
Elementary & Junior High Schools		Largest work shift	1 per 2 classrooms
Hospitals/Nursing Homes		Largest work shift	1 per bed & 1 per 5 outpatients
Libraries, Museums and Gallery	400		
Sororities/Dorms/Boarding House			1 per bed
Worship Facility		Largest work shift	1 per every 4 seats

**Recreation and Entertainment**

**Space/Sq. Ft.**

**Space/Employee**

**Special Criteria**

Amusement Center, Arcades, Aquariums, Banquet Halls, Exhibition Halls			1 space per 3 person at maximum capacity
Athletic Field			10 per field
Bowling Alley		Full-time employee	5 per bowling lane
Golf Course		Largest work shift (2)	3 per hole
Golf Driving Range			2 per tee
Indoor Shooting Range		Full-time employee	1 per shooting lane
Marina			1.5 per boat slip
Miniature Golf Course		Largest work shift	1 per hole
Park/Recreation Areas/Community Centers		Full-time employee (2)	TBD by P&D
Skating Rinks/Swimming Pools		Full-time employee (2)	1 per 3 persons based on maximum capacity

## Uses Not Listed

Provisions for a similar use shall apply as approved by P&D

- (b) Handicap Parking Requirements. In addition to any other requirements relating to parking spaces contained in this Ordinance, Wis. Admin. Code §346.503 sections adopted pursuant thereto, are hereby adopted by reference and are made applicable to all parking facilities whenever constructed.
- (c) Uses Not Listed. In the case of structures or uses not listed, the provisions for a use which is similar shall apply as determined by Planning & Development.
- (d) Adjustments to Number of Required Parking. In all commercial, institutional, residential, and industrial districts, the minimum number of required parking spaces may be adjusted by the Department of Planning & Development on a case-by-case basis. The petition for such adjustment shall show that adequate parking will be provided for customers, clients, visitors, and employees. The following provisions and factors shall be used as a basis to adjust parking requirements:
  - 1 Evidence, such as peak versus off-peak demand, those actual parking demands will be less than the ordinance requirements. The petitioner shall submit written documentation that the operation will require less parking than the ordinance requires.
  - 2 Availability of shared parking. The petitioner shall submit written documentation that shared parking spaces are available to satisfy the parking demand on either the same or an adjacent parcel.
    - a Shared parking agreements shall provide evidence that either parking lots are large enough to accommodate multiple users or that parking spaces will be shared at certain times of the day (i.e. a church uses parking on Sundays, when other businesses are closed).
  - 3 Space set aside for reduced parking. The site plan for proposed use shall be designed to provide sufficient open space on the subject site to accommodate the additional parking spaces otherwise required by this Ordinance. The open space shall be provided which, if converted to parking spaces, would provide off-street parking to meet the full requirements of this Ordinance along with all related open space requirements, stormwater management standards, and any other code regulation or adopted standards.
  - 4 Changes in occupancy or use. When the use of a building, structure, or land is changed to another use or occupant that requires more parking spaces than required for the use existing immediately prior to such change, additional parking spaces shall be constructed for the new use or occupant in the amount necessary to conform to this Ordinance.

- 5 Changes in intensity of use. When the intensity of use of a building, structure or land is increased by an addition of employees, gross floor area, seating capacity, or other unit of measurement, additional parking spaces shall be constructed for such additions in the amount necessary to conform to this Ordinance.
- (e) Combinations of uses. Combinations of any of the above uses shall provide the total of the number of spaces required for each individual use.
- (f) Interconnecting Parking Lots. Interconnecting parking lots may be required to promote safe and controlled access points. All required setbacks shall apply. The connecting aisles shall have a maximum width of twenty-four (24) feet. A cross access easement agreement, including a legal description, specific use and maintenance responsibilities, shall be approved by the Department of Planning & Development and recorded in the Register of Deeds Office.
- (g) Adequate Access. Adequate access to a public or private roadway shall be provided for each parking space. Driveways for all single-family and two-family residential uses shall be a minimum of ten (10) feet in width and not exceed twenty-four (24) feet at the property line. For all other properties, vehicular ingress and egress shall not exceed thirty-five (35) feet in width at the property line.
- (h) Size. The minimum area of each parking space shall be nine (9) feet wide by eighteen (18) feet long, exclusive of the area required for ingress and egress. Parking space width shall exclude the curb gutter width. Parking space length can include the curb gutter width up to the curb face.
- (i) Location. The location of each parking space shall be on the same lot or parcel as the principal use, and all parking lots shall have the same zoning district as the principal use.
- (j) Setback. Except for a single-family or two-family residence, parking spaces and driveways shall be a minimum of twenty (20) feet from the established highway right-of-way, a minimum of ten (10) feet from all rear and side lot lines and a minimum of seventy-five (75) feet from the Ordinary High Water Mark of a navigable water body. When abutting a residential district or a planned residential district (based on a Village's adopted Land Use Plan), driveways or parking lots shall be a minimum of twenty (20) feet to the property line.
- (k) Surfacing. All off-street parking areas for more than five vehicles shall be graded and surfaced with asphalt or concrete and properly drained.
- (l) Markings. Any parking area for more than five (5) vehicles shall have the aisles and spaces identified by surface markings and shall be maintained in a manner so as to be readily visible and accessible at all times. Such markings shall be arranged to provide for orderly and safe loading, unloading, parking and storage of vehicles. Marking shall be maintained in a highly visible condition including striping, directional arrows, lettering on signs and in handicapped-designated areas.

- (m) Curbs or Barriers. Curbs or barriers shall be installed so as to prevent vehicles from extending beyond the parking setback requirements. Landscaped islands and planting strips shall be required to be curbed.
- (n) Aisle widths. The aisle width within parking lots shall be a minimum of twenty-four (24) feet between the ends of parking spaces, except for one-way aisles which shall be eighteen (18) feet for sixty (60°) degree spaces.
- (o) Screening from abutting residential uses. Those parking areas for five (5) or more vehicles if, abutting a residential use, shall be screened from such use by a solid wall, fence, berm, evergreen planting of equivalent visual density or other effective means, built and maintained at a minimum height of four feet at the time of planting or installation.
- (p) Landscaping. Those requirements as described in Section ZN 3.19 of this Ordinance shall apply.
- (q) Lighting. Lighting fixtures shall be provided in all parking areas and driveways, except for single-family and two-family residential districts and then according to the requirements as set forth in Section ZN 3.18 Exterior Lighting Standards. A photometric plan of all parking areas and driveways shall be submitted to Planning and Development for review and approval.
- (r) Vehicle Parking and/or Storage in a Residential District.
  - 1 Semi-truck cabs shall not be parked and/or stored on a parcel in any residential district for more than a total of four (4) days in a thirty (30) day period. A day is counted if the semi-truck cab is parked and/or stored for any length of time within in a normal twenty-four (24) hour day.
  - 2 The following vehicles shall not be parked and/or stored on a parcel in any residential district:
    - a Semi-trailers, tow trucks, garbage trucks, septic waste trucks and aerial lift trucks.
    - b Dump trucks, flatbed trucks, box trucks, panel trucks, high cube vans, and step vans with licenses rated for a gross weight equal to or greater than twelve thousand (12,000) pounds.
    - c Specialized construction type equipment and vehicles such as, but not limited to backhoes, bulldozers, bobcats, skid loaders, and chippers.
  - 3 Exceptions.
    - a One (1) dump truck, flatbed truck, box truck, panel truck, high cube van, or step van with licenses rated for a gross weight less than twelve thousand (12,000) pounds.

- b One (1) local electrical power utility emergency response truck is permitted on a parcel with approval by the Department of Planning and Development.
- (s) Vehicle Parking and/or Storage in an Agricultural or Conservation District.
  - 1 The following vehicles shall not be parked and/or stored on a parcel in any agricultural or conservation district:
    - a Tow trucks, garbage trucks, septic waste trucks and aerial lift trucks.
    - b Dump trucks, flatbed trucks, box trucks, panel trucks, high cube vans, and step vans with licenses rated for a gross weight equal to or greater than twelve (12,000) pounds, except when they are engaged in the production, storage, trucking and/or transport of products grown on the property.
    - c Specialized construction type equipment and vehicles such as, but not limited to backhoes, bulldozers, bobcats, skid loaders, and chippers, except when they are engaged in the production, storage, trucking and/or transport of products grown on the property.
  - 2 The following vehicles may be parked and/or stored on a parcel in any agricultural or conservation district.
    - a One (1) semi-truck cab and one (1) related semi-trailer is permitted to be parked and/or stored on a parcel for every resident of the parcel who is engaged in the profession of over-the-road transport, with a maximum of two (2). Verification of residency and profession may be required by the Department of Planning and Development.
    - b Semi-truck cabs and related semi-trailer parking and/or storage are permitted on a parcel when they are engaged in the production, storage, trucking and/or transport of products grown on the property, with a maximum total of four (4).
    - c No semi-trailer shall be used for storage or parked for any reason for more than thirty (30) days in a three hundred sixty-five (365) day period, except as stated in a and b. of this section.
    - d One (1) local electrical power utility emergency response truck is permitted on a parcel with approval by the Department of Planning and Development.
- (t) Semi-Trailer Storage or Parking in a Business, Manufacturing, or Institutional District.
  - 1 Semi-trailer storage or parking is permitted without exception only within permitted transshipment depots and trucking facilities.



- 2 No semi-trailer shall be used for storage or parked for any reason for more than thirty (30) days in a three hundred sixty-five (365) day period, except as stated in 1. of this section.

(u) Recreational Vehicle Parking.

- 1 Recreational vehicles shall include but are not limited to the following: boats, jet skis, mini-bikes, trail bikes, off-road vehicles, motor homes, travel trailers, camping trailers, and boat, motor bike, snowmobile, or vehicle trailers.
- 2 Recreational vehicles are permitted in any district subject to the following:
  - a Parking and/or storage of recreational vehicles are permitted inside an enclosed accessory structure.
  - b Parking and/or storage of recreational vehicles shall not be permitted on any vacant lot.
  - c No more than two (2) recreational vehicles shall be parked and/or stored in the side or rear yard outside of an enclosed structure. No recreational vehicles shall be parked and/or stored in the street yard. Recreational vehicles stored outside of an enclosed structure shall be owned by the property owner or resident on whose property the vehicle is parked and/or stored, except for approved commercial storage facilities.
- 3 Recreational vehicles shall not be used as follows:
  - a As a dwelling unit or temporary housing at any time, including use during construction of a permanent dwelling.
  - b As an accessory structure for storage.

(4) **DRIVEWAYS AND HIGHWAY ACCESS.**

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

- (a) Openings for vehicular ingress and egress shall not exceed thirty (30) feet at the street line and thirty-five (35) feet at the roadway.
- (b) Vehicle entrances and exits to drive-in theaters, banks, restaurants, motels, funeral homes, vehicle sales and service, car washes, service stations, garages, or public parking lots shall be not less than three hundred (300) feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park playground, library, or other place of public assembly.

- (c) No direct public or private access shall be permitted to the existing or proposed rights-of-ways of freeways, interstate highways, and interchanges and their entrances or exit ramps nor within five hundred (500) feet of the most remote end of the taper of the entrances or exit ramp. (see illustration #3).
- (d) No direct public or private access shall be permitted to any existing or proposed Federal, State Trunk, or County Trunk Highway within two hundred fifty (250) feet of its intersection with another street or highway right-of-way.
- (e) Access barriers, such as curbing, fencing, ditching, landscaping, or other topographic barriers, shall be erected to prevent unauthorized vehicle ingress or egress to the above specified streets or highways.
- (f) Temporary access to the rights-of-way in subsections (c), (d) and (e) above may be granted by the Board of Adjustments after review and recommendation by the highway agencies having jurisdiction. Such access permit shall be temporary, revocable, and subject to any conditions required and shall be issued for a period not to exceed twelve (12) months.

### **ZN 3.07 SIGNS.**

The purpose of this section is to provide for and regulate the type, construction, image, maintenance and placement of signs in a manner that will ensure that such signs are compatible with surrounding land uses, are aesthetic in design and structure, and express the identity of individual proprietors and the community as a whole. It is the further intent by these regulations to avoid depreciation of property values through indiscriminate location and design of signs, to lessen threats to public safety from poorly constructed and maintained signs to protect against hazards to vehicular traffic movement through improper placement of signs and to clarify the rights and duties of owners and users of non-conforming signs.

#### **(1) PERMIT REQUIRED.**

- (a) No sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a zoning permit, except those signs permitted under Section ZN 3.07(2) and (3), and further excepting the refacing of existing signs as defined in this Ordinance, without being in conformity with the provisions of this Ordinance, Section 84.30, Wis. Stats., as hereinafter amended or recreated. The sign shall also meet all the structural requirements of local and state building codes.
- (b) Before any sign for which a permit is required by this Ordinance is erected, there shall be submitted to the Department of Planning and Development the written consent of the owner of the land upon which the sign is to be located that permission has been so granted, a scale drawing of the proposed sign indicating its location on the premises and its relationship to other structures and property lines, and a computation of the display area as defined in this Ordinance.

- (c) Back to back signs or V-shaped signs shall constitute but one sign within the meaning of this Ordinance.
- (d) All street sign setbacks shall be from the outer edge of the highway, street or road right-of-way.
- (e) All side and rear setbacks shall be those of the district of which the sign is located.

(2) **SIGNS PROHIBITED.**

No signs or any part thereof or sign anchors, braces, or guide rods shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe, and no sign or any part of any sign or any anchor, brace, or guide rod shall be erected, relocated, put up, or maintained so as to hinder or prevent ingress or egress from public or private driveways, parking lots or fire escapes or through a door, doorway, or window or so as to hinder or prevent pedestrian traffic on a sidewalk or so as to hinder or prevent the raising or placing of ladders against a building by the fire department as necessity therefore may require. No sign shall be placed so as to obstruct or interfere with traffic visibility nor be lighted in such a way as to cause glare or impair driver visibility upon public right-of-ways.

- (a) Any sign that creates a hazard or dangerous distraction to vehicle traffic or a nuisance to adjoining property.
- (b) Any sign resembling, imitating or approximating the shape, size, form or color of railroad or traffic signs, signals or devices, or obstructing or interfering with the effectiveness of said devices.
- (c) Any sign that moves or has moving, rotating or animated parts.
- (d) Inflatable signs.
- (e) Any temporary, spring-action metal advertising sign used, for example, to advertise cigarette or gasoline prices.
- (f) Any sign located within a vision triangle as defined by Section ZN 3.06(1).
- (g) Any sign installed or constructed within the right-of-way, except for official signs.
- (h) Any sign containing statements, words or pictures classified as “obscene material” as defined by §944.21, Wis. Stats.
- (i) Roof signs.
- (j) Any sign mounted on wheels, trailers, motor vehicles or any other non-permanent structure parked within sight of a street for the purpose of advertising. This section does not apply to signs which are incidental to the identification of such motor vehicle.

- (k) Any sign that produces sound, causes interference with radio, telephone, television or other communication transmissions; produces or reflects motion pictures or video; emits visible smoke, vapor, particles, or odor.
- (l) Obsolete signs.
- (m) Signs which are deteriorated, dilapidated, structurally dangerous or unsafe, as determined by local building inspector.
- (n) Off-premise signs, except for unified business center signs.
- (o) Any sign exceeding thirty (30) feet in height.

(3) **SIGNS PERMITTED IN ALL DISTRICTS WITHOUT A ZONING PERMIT.**

The following types of signs shall be permitted in all districts without a zoning permit, located on the premises upon the following conditions:

(a) **Agricultural District Signs.**

- 1 Number: Limited to one (1) sign per highway frontage.
- 2 Area: Maximum of twenty (20) square feet per sign.
- 3 Height: Fifteen (15) feet.
- 4 Street Setback: Fifteen (15) feet
- 5 Lighting: Full cut-off top down directional.
- 6 Landscaping: None required
- 7 Lighting: None permitted.
- 8 Landscaping: None required

(b) **Blade and Suspended Signs**

- 1 Number: One (1) per business/tenant.
- 2 Area: Maximum of four (4) square feet.
- 3 Height: At least eight (8) feet above the public sidewalk or thoroughfare.
- 4 Lighting: Full cut-off; top down directional or internal.
- 5 Landscaping: None required.

(c) Agricultural District Signs.

- 1 Number: Limited to one (1) sign per highway frontage.
- 2 Area: Maximum of twenty (20) square feet per sign.
- 3 Height: Fifteen (15) feet.
- 4 Street Setback: Fifteen (15) feet
- 5 Lighting: Full cut-off top down directional.
- 6 Landscaping: None required

(d) Flagpoles.

- 1 Number: Three (3) flagpoles per property in any non-residential district.
- 2 Area: No maximum
- 3 Height: Forty (40) feet.
- 4 Street Setback: Equal to the height of the flagpole.
- 5 Lighting: Shall be designed and shielded so as not to direct any light or produce glare onto any adjacent residential districts and shall also be so arranged so as to not adversely affect driver visibility with stray light or glare on adjacent rights-of-way.
- 6 Landscaping: None required.

(e) On-Site Informational Signs.

- 1 Drawings showing the specific design, appearance and location of the sign(s) shall be submitted to the Department of Planning and Development for approval.
- 2 Number: No limit.
- 3 Area: Maximum of nine (9) square feet per sign.
- 4 Height: Five (5) feet.
- 5 Street Setback: Two (2) feet.
- 6 Lighting: Full cut-off; top down directional or internal.
- 7 Landscaping: None required.

(f) Temporary Signs.

- 1 Area: Maximum of nine (9) square feet per side of sign, or if located on a county or state trunk highway shall not exceed thirty-two (32) square feet per side of sign, maximum sixty-four (64) square feet maximum for all sides.
- 2 Height: Five (5) feet, or if on a county or state trunk highway ten (10) feet.
- 3 Street Setback: Fifteen (15) feet.
- 4 Lighting: None permitted.
- 5 Landscaping: None required.

(g) Window Signs. Provided not more than fifty (50%) percent of each window is covered by signs or graphics and is located on the inside of the window.

(4) **SIGNS PERMITTED IN ALL DISTRICTS WITH A PERMIT.**

Except as provided in Section ZN 3.07(2) and (3), the following signs shall be permitted in all districts with a permit:

(a) Temporary Development Signs. A sign for the purpose of designating or promoting a new building, development, business/industrial park or subdivision may be permitted for a limited period of time with the approval of the Department of Planning and Development and subject to the following:

- 1 Drawings showing the specific design, appearance and location of the sign.
- 2 The sign shall be located in the development site. Such sign may be permitted for a period up to two (2) years, and extension may be permitted for a period not to exceed six (6) years total.
- 3 Number: Two (2).
- 4 Area: Fifty (50) square feet per side of sign.
- 5 Height: Fifteen (15) feet.
- 6 Street Setback: Fifteen (15) feet.
- 7 Lighting: Full cut-off; top down directional or ground mounted directional.
- 8 Landscaping: As contained elsewhere in this Ordinance.

- (b) Permanent Development Signs. A sign which is permanently located at entrances or along streets or highways which designates a development, business/industrial park or subdivision with the approval of the Department of Planning and Development and subject to the following:

- 1 Drawings showing the specific design, appearance and location of the sign.
- 2 Only the name of the development shall be permitted on the sign. The sign shall be located in the development site.
- 3 Number: One (1).
- 4 Area: One-hundred-fifty (150) square feet per side.
- 5 Height: Ten (10) feet.
- 6 Street Setback: Fifteen (15) feet. If located in an island boulevard the sign shall not be less than fifteen (15) feet from the back of the curb of the center boulevard island adjacent to the intersection, highway or street right-of-way and furthermore shall not be less than four (4) feet from the back of the curb of the boulevard island.
- 7 Lighting: Full cut-off; top down directional or ground mounted directional.
- 8 Landscaping: As contained elsewhere in this Ordinance.

(5) **SIGNS PERMITTED IN RESIDENTIAL DISTRICTS.**

Except as provided in Sections ZN 3.07(2) and (3), the following signs are permitted only in the residential districts with a permit and only on the premises and subject to the following regulations:

- (a) Freestanding Signs. Signs for home occupations permitted under Sections ZN 3.03(1) and (2), provided:

- 1 Number: One (1).
- 2 Area: Maximum of four (4) square feet.
- 3 Height: Eight (8) feet.
- 4 Street Setback: Fifteen (15) feet.
- 5 Lighting: Full cut-off; top down directional or ground mounted directional.
- 6 Landscaping: None required

**(6) SIGNS PERMITTED IN ALL BUSINESS, MANUFACTURING, INSTITUTIONAL, AND PARK-RECREATIONAL DISTRICTS.**

Except as provided in Sections ZN 3.07(2) and (3), the following signs are permitted only in the business, manufacturing, institutional, and park recreation districts with a permit and only on the premises and subject to the following regulations:

**(a) Awning and Canopy Signs.**

- 1 Number: One (1).
- 2 Area: Maximum of fifteen (15) percent per side of each face.
- 3 Height: At least eight (8) feet above the public sidewalk or thoroughfare.
- 4 Lighting: Full cut-off; top down directional or internal.
- 5 Landscaping: None required.

**(b) Menu Boards.** Drawings showing the specific design, appearance and location of the sign(s) shall be submitted to the Department of Planning and Development for approval.

- 1 Number: Subject to approval of Planning & Development
- 2 Area: Thirty-six (36) square feet per sign
- 3 Height: Eight (8) feet
- 4 Street Setback: Fifteen (15) feet
- 5 Lighting: Full cut-off; top down directional or internal
- 6 Landscaping: None required

**(c) Monument Signs.**

- 1 Number: Limited to one (1) per street frontage or drive entrance, provided that no monument sign is located closer than a minimum of three hundred (300) feet to another monument sign on the same property.
- 2 Area: Eighty (80) square feet per side of sign, one-hundred sixty (160) square feet maximum for all sides.
- 3 Height: Ten (10) feet.
- 4 Street Setback: Five (5) feet.



- 5 Lighting: Full cut-off; top down directional, ground mounted directional or internal.
- 6 Landscaping: As contained elsewhere in this Ordinance.

(d) Freestanding Signs

- 1 Number: Limited to one (1) per street frontage or drive entrance, provided that no freestanding sign is located closer than a minimum of three hundred (300) feet to another freestanding sign on the same property.
- 2 Area: One-hundred fifty (150) square feet per side of sign, three-hundred (300) square feet maximum for all sides, except for freestanding signs within an area between Interstate Highway 94 and a distance fifty (50) feet beyond the outermost right-of-way edge of the Frontage Road may be up to three-hundred (300) square feet per side of sign and six-hundred (600) square feet maximum for all sides.
- 3 Height: Twenty (20) feet, except for freestanding signs within an area between Interstate Highway 94 and a distance fifty (50) feet beyond the outermost right-of-way edge of the Frontage Road may be up to thirty (30) feet.
- 4 Street Setback: Fifteen (15) feet.
- 5 Lighting: Full cut-off; top down directional, ground mounted directional or internal.
- 6 Landscaping: As contained elsewhere in this Ordinance.
- 7 Signs with exposed poles or posts shall be individually enclosed or covered.

(e) Portable Signs

- 1 Number: One (1).
- 2 Area: Thirty-two (32) square feet.
- 3 Height: Six (6) feet.
- 4 Street Setback: Fifteen (15) feet.
- 5 Lighting: Internal. No flashing or traveling lights.
- 6 Landscaping: None required.

(f) Projecting Signs

- 1 Number: One (1).

- 2 Area: One-hundred (100) per side.
- 3 Height: Twenty (20) feet above the mean centerline street grade and shall not be less than ten (10) feet above a sidewalk or other pedestrian way, nor fifteen (15) feet above a driveway or an alley.
- 4 Street Setback: Fifteen (15) feet.
- 5 Other Setback: Shall not extend more than six (6) feet in any required yard; shall not be less than ten (10) feet from all lot lines.
- 6 Lighting: Full cut-off top down directional or internal.
- 7 Landscaping: None required.

(g) Unified Business Center Sign

- 1 Number: Limited to one (1) per street frontage and/or entrance. An additional Unified Business Center Sign is permitted per four hundred (400) feet of street frontage, with a maximum of two (2) signs permitted per street frontage.
- 2 Area: Three-hundred (300) square feet per side, six-hundred (600) square feet maximum for all sides.
- 3 Height: Thirty (30) feet.
- 4 Street Setback: Fifteen (15) feet.
- 5 Lighting: Full cut-off; top-down directional, ground-mounted directional or internal.
- 6 Landscaping: As contained elsewhere in this Ordinance.
- 7 Signs with exposed poles or posts shall be individually enclosed or covered.

(h) Wall Signs

- 1 Single-Tenant Buildings
  - a Number: One (1) per public entrance or wall/facade which fronts upon a public right-of-way or private drive.
  - b Area: Limited to one and one-half (1.5) times the length of the wall on which the sign is to be placed, up to a maximum of six-hundred (600) square feet.
  - c Height: Twenty (20) feet in height above the mean centerline street grade.

- d Extension: Shall not extend more than twelve (12) inches outside of a building's wall surface.
- e Lighting: Full cut-off; top-down directional, or internal.
- f Landscaping: None required.

## 2 Multi-Tenant Buildings and Shopping Centers

- a Number: One (1) per tenant, plus each tenant may place one (1) wall sign per public entrance or wall/facade which fronts upon a public right-of-way or private drive and contained within the tenant's internal wall space or end cap wall area.
- b Area: Limited to one and one-half (1.5) times the length of the wall on which the sign is to be placed, up to a maximum of six-hundred (600) square feet.
- c Height: Twenty (20) feet in height above the mean centerline street grade.
- d Extension: Shall not extend more than twelve (12) inches outside of a building's wall surface.
- e Lighting: Full cut-off; top-down directional or internal.
- f Landscaping: None required.

- (i) Search Lights. The temporary use of search lights for advertising purposes may be permitted provided that the search light will not be located in any public right-of-way, will not be located closer than ten (10) feet to an adjacent property, and will not cause a hazard to traffic or adjoining properties. Search light permits shall not be granted for a period of more than twelve (12) days in any six (6) month period.

### (7) **SIGNS PERMITTED IN FLOODPLAIN OVERLAY DISTRICTS.**

Only freestanding signs shall be permitted within the FPO Floodplain Overlay District, subject to the regulations in Section ZN 3.07(6)(d).

### (8) **CONSERVANCY DISTRICT SIGNS.**

No commercial advertising sign shall be permitted in the C-1 or C-2 Districts.

### (9) **EXISTING NON-CONFORMING SIGNS.**

Signs lawfully existing at the time of the adoption or amendment of this Ordinance may be continued or refaced, as defined in this Ordinance, although the use, size, or location does not conform with the provisions of this Ordinance. However, it shall be deemed a non-conforming use or structure and the provisions of Section ZN 5.02(7) or Section ZN 5.02(8) shall apply as applicable.

(10) **GENERAL SIGN CONSTRUCTION STANDARDS AND REQUIREMENTS.**

- (a) Electronic Message Centers (EMCs). A freestanding sign, monument sign or wall sign may contain an EMC, provided it does not display video. All EMCs are required to have automatic dimming capability that adjusts the brightness to the ambient light at all times of the day and night.

Any EMC that malfunctions, fails, or ceases to operate in its usual or normal programmed manner, thereby causing motion, movement, flashing or any other similar effects, shall be repaired or disconnected within twenty-four (24) hours by the owner or operator of such sign.

- 1 Area: Maximum of sixty-six (66%) percent of total permitted display area.
  - 2 Brightness: Not to exceed three-tenths (0.3) footcandles over ambient lighting conditions when measured as detailed in the International Sign Association's "Recommended Night-time Brightness Levels for On-Premise Electronic Message Centers (EMC's)", dated October 2013.
  - 3 Message Hold Time: Maximum of five (5) seconds.
  - 4 Transition Duration: Maximum of one (1) second.
- (b) Wind Pressure and Dead Load Requirements. All signs and other advertising structures shall be designed and constructed to withstand wind pressure of not less than forty (40) pounds per square foot of area.
- (c) Protection of the Public. The temporary occupancy of a sidewalk or street or other public property during construction, removal, repair, alteration, or maintenance of a sign is permitted provided the space occupied is roped off, fenced off, or otherwise isolated.
- (d) Maintenance. Except for non-conforming signs, the owner of any sign shall keep a sign in good maintenance and repair which includes restoring, repainting, or replacing a worn or damaged sign to its original condition. The owner of all conforming and non-conforming signs shall, however, maintain the premises on which the sign is erected in a clean, safe, and inoffensive condition, free and clear of all obnoxious substances, rubbish, weeds, and grass.
- (e) Supporting Members or Braces. All signs shall be constructed of galvanized iron, properly treated steel, copper, brass, or other non-corrosive incombustible material or properly treated and structurally sound wood. All signs, if placed at a right or other angle to the wall or roof of any building, shall be attached by such non-corrosive metal bolts, anchors, cable, or other metal attachments as shall ensure permanent and safe construction, and shall be maintained free from rust or other defects.
- (f) Compliance with Electrical Codes. All electric signs shall comply with applicable local and state electrical codes.

- (g) External Lighting. All external lighting of signs shall be designed and shielded so as not to direct any light or produce glare onto any adjacent residential districts and shall also be so arranged so as to not adversely affect driver visibility with stray light or glare on adjacent rights-of-ways.
- (h) Landscape Requirements. All freestanding or monument signs shall meet the landscape requirements as contained elsewhere in this Ordinance.

## **ZN 3.08 FENCES.**

### **(1) PERMIT REQUIRED.**

No fence, except those fences provided for in Section ZN 3.08(2), shall hereinafter be located, directed, moved, reconstructed, extended enlarged, converted or structurally altered without a zoning permit and without being in conformity with the provisions of this Ordinance, State Statutes and the Wisconsin Administrative Code. The fence shall also meet all the structural requirements of local and State codes. All fences shall be constructed in a manner that the finished side of the fence faces the neighboring property.

### **(2) FENCES PERMITTED WITHOUT A ZONING PERMIT.**

The following fences are permitted as specified without a zoning permit subject to the following restrictions and providing that said fence does not in any way interfere with traffic visibility:

- (a) A snow fence shall be permitted in all districts when comprised of wooden pickets bound together by wire or molded plastic mesh and not exceeding four feet in height and removed between May 1 and November 1 of each year. No privately-owned snow fence shall extend beyond the highway right-of-way line.
- (b) Fences to be installed around swimming pools shall be governed by the provisions of Section ZN 3.09(7).
- (c) Agricultural fences in the A-1, A-2, A-3 and A-4 Districts shall be permitted provided that they do not extend beyond the highway or road right-of-way.
- (d) Decorative fences not exceeding two (2) feet in height shall be permitted in all districts.
- (e) Wire strand fences for agricultural purposes may be constructed or placed within the required shore yard, one hundred (100) year floodplain and/or C-1 Lowland Resource Conservancy District

### **(3) FENCES OR WALLS FOR WHICH A ZONING PERMIT IS REQUIRED.**

- (a) Residential fences or walls are permitted up to the side and rear property lines and not closer than two (2) feet to any public right-of-way in residential districts, but shall not be greater than six (6) feet in height in the side yard and rear yard, nor greater than four (4) feet in height in the

street yard. Residential fences or walls may be six (6) feet in height in the rear street yard of a double frontage lot or in the side street yard of a corner lot not closer than fifteen (15) feet to the right of way of the side street yard. No fence or wall greater than two (2) feet in height shall be placed within the vision triangle. No fence or wall which incorporates barbed wire shall be permitted in a residential district. Residential fences may be constructed or placed within the required shore yard in any district provided the fence is not more than four (4) feet in height, is a split-rail or board type with minimum openings of at least one (1) foot by eight (8) foot, and is at least two (2) feet from the ordinary high water mark of any navigable waterway.

- (b) Security fences or walls are permitted in all districts other than residential districts. Security fences or walls may be placed on side and rear property lines, but shall not be located closer than two (2) feet to a public right-of-way line. Security fences or walls shall not exceed ten (10) feet in height. No fence or walls greater than two (2) feet in height shall be placed within the vision triangle. Security fences shall not be constructed or placed within the required shore yard in any district or within the one hundred (100) year recurrence interval floodplain.
- (c) No fence, except barbed wire or wire strand fences for agricultural purposes, shall be constructed or placed within the FPO Floodplain Overlay District.

### **ZN 3.09 SWIMMING POOLS.**

(1) **COMPLIANCE.**

It shall be unlawful to construct, install, enlarge, or alter any swimming pool as defined in the Ordinance, in the Village of Somers except in compliance with all of the provisions of this section.

(2) **DISTRICTS.**

Swimming pools may be installed in all districts except the C-1 Lowland Resource Conservancy District, FPO Floodplain Overlay District or on any parcel on which an Adult Establishment is located.

(3) **PERMIT REQUIRED.**

It shall be unlawful to proceed with the construction, installation, enlargement or alteration of any private residential swimming pool and accessories thereto within the Village unless permits therefore shall have first been obtained from the Department of Planning and Development.

(4) **APPLICATION.**

All drawings and plans for the construction, installation, enlargement or alteration of any such swimming pool and the accessories thereto shall first be presented to the Department of Planning and Development for examination and approval as to proper location and construction.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all lot lines, and all information pertaining to the pool, walk, deck, fence construction, water supply system, drainage and water disposal systems, and all accessories pertaining to the swimming pool. Such plans shall also indicate the vertical elevations of the pool.

All private residential swimming pools and accessories thereto, water supply and drainage systems shall be constructed in conformity with the approved plans.

**(5) LOCATION.**

Swimming pools and spas shall only be installed in the rear yard of a premise. In the case of a double frontage lot, swimming pools and spas may be installed only in the secondary street yard of the premises so long as the required minimum street yard setback is maintained. No portion of a swimming pool or spa outside a building, including a surrounding deck and fence, pumps, filters, and related pool equipment shall be located at a distance of less than eight (8) feet from any side or rear property line or building line. Such pool shall also comply with any and all state or local regulations with respect to the distances from an on-site sewage disposal absorption system and private well.

**(6) AREA.**

Such pool may be constructed provided however it does not occupy more than forty (40%) percent of the usable area of the rear yard excluding all garages or other accessory structures located in such area.

**(7) SAFETY FEATURES.**

No swimming pool shall be installed or maintained unless:

- (a) In the case of an in ground pool, there shall be erected and maintained a good quality safety fence not less than four (4) feet in height completely surrounding the pool or surrounding the yard in which the pool is located.
- (b) In the case of an above ground pool, one (1) of the following must be met:
  - 1 Erect and maintain a good quality safety fence of not less than four (4) feet in height completely surrounding the pool or surrounding the yard in which the pool is located, or
  - 2 The total wall height of the pool and surrounding deck/railing must be at least six (6) feet above yard grade.
- (c) In the case of a spa/hot tub, a locked safety cover meeting American Society for Testing Materials Specifications may be used, or a spa must be completely enclosed in a structure with locking windows and doors.
- (d) Safety fencing must be so constructed as not to have voids, holes or openings larger than four inches in one dimension.
- (e) Every gate or other opening in the fence enclosing the pool or yard (including spa safety covers) except an opening to the dwelling or other building shall be kept securely closed and locked at all times when the owner or occupant of the premises is not present at such pool/spa. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate.
- (f) The swimming pool shall not be filled with water until all safety features are in place.

(8) **LIGHTING.**

No lighting may be installed in connection with the pool which shall throw any rays beyond such property lines.

(9) **WATER DRAINAGE.**

No water drained from a pool shall be discharged over or near any septic tank, septic field or well.

(10) **INSPECTION.**

The Village Building Inspector shall inspect all swimming pools to determine whether or not the provisions of this Ordinance are being complied with.

## **ZN 3.10 SHORELAND REGULATIONS.**

(1) **REGULATIONS**

All applicable use, site, or sanitary restrictions and regulations shall apply to shorelands in addition to those listed below. Shoreland regulations apply to all the lands in the incorporated areas of the Village of Somers which are:

- (a) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages.
- (b) Within three hundred (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.
- (c) Determinations of navigability and ordinary high-water mark location shall initially be made by the zoning administrator. When questions arise, the zoning administrator shall contact the appropriate office of the Wisconsin Department of Natural Resources for a final determination of navigability or ordinary high-water mark.
- (d) Under §281.31(2m), Wis. Stats., notwithstanding any other provision of law or administrative rule promulgated thereunder, this shoreland zoning ordinance does not apply to:
  - 1 Lands adjacent to farm drainage ditches if such lands are not adjacent to a natural navigable stream or river or those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching.
  - 2 Lands adjacent to artificially constructed drainage ditches, ponds or stormwater retention basins that are not hydrologically connected to a natural navigable water body.

(2) **TREE CUTTING, SHRUBBERY CLEARING AND IMPERVIOUS SURFACE.**

- (a) To protect water quality, fish and wildlife habitat and natural scenic beauty, and to promote preservation and restoration of native vegetation, the Village ordinance shall designate land that



extends from the ordinary high water mark to a minimum of thirty-five (35) feet inland as a vegetative buffer zone and prohibit removal of vegetation in the vegetative buffer zone except as follows:

- 1 The Village may allow routine maintenance of vegetation.
  - 2 The Village may allow removal of trees and shrubs in the vegetative buffer zone to create access and viewing corridors. The viewing corridor may be at least thirty-five (35) feet wide for every one hundred (100) feet of shoreline frontage. The viewing corridor may run contiguously for the for the entire maximum width or shoreline frontage owned.
  - 3 The Village may allow removal of trees and shrubs in the vegetative buffer zone on a parcel with ten (10) or more acres of forested land consistent with “generally accepted forestry management practices” as defined in Wis. Admin. Code §NR 1.25(2)(b), and described in Department publication “Wisconsin Forest Management Guidelines” (publication FR-226), provided that vegetation removal be consistent with these practices.
  - 4 The Village may allow removal of vegetation within the vegetative buffer zone to manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that any vegetation removed be replaced by replanting in the same area as soon as practicable.
  - 5 The Village may authorize by permit additional vegetation management activities in the vegetative buffer zone. The permit shall require that all management activities comply with detailed plans approved by the Village and designed to control erosion by limiting sedimentation into the waterbody, to improve the plant community by replanting in the same area, and to maintain and monitor the newly restored area that meets the standards found in Section ZN 3.10(8) (Mitigation). The permit also shall require an enforceable restriction to preserve the newly restored area.
- (b) Impervious Surface. Impervious surface standards were established to protect water quality and fish and wildlife habitat and to protect against pollution of navigable waters. Village impervious surface standards shall apply to the construction, reconstruction, expansion, replacement or relocation of any impervious surface on a riparian lot or parcel and any non-riparian lot or parcel that is located entirely within three hundred (300) feet of the ordinary high-water mark of any navigable waterway.
- 1 Calculation of Percentage of Impervious Surface. Percentage of impervious surface shall be calculated by dividing the surface area of the existing and proposed impervious surfaces on the portion of a lot or parcel that is within three hundred (300) feet of the ordinary high-water mark by the total surface area of that lot or parcel, and multiplied by one hundred (100). Impervious surfaces described in Section ZN 3.10(2)(d) shall be

excluded from the calculation of impervious surface on the lot or parcel. If an outlot lies between the ordinary high water mark and the developable lot or parcel and both are in common ownership, the lot or parcel and the outlot shall be considered one lot or parcel for the purposes of calculating the percentage of impervious surface.

- a General Impervious Surface Standards. A shoreland property owner not on a highly developed shoreland listed in Section ZN 3.10(2) shall be allow up to fifteen (15%) percent impervious surface on the portion of a lot or parcel that is within three hundred (300) feet of the ordinary high-water mark.

2 Maximum Impervious Surface Standard.

- a A property owner in a highly developed shoreland listed in Section ZN 3.10(2) may have more than thirty (30%) percent impervious surface but not more than forty (40%) percent impervious surface for residential land uses. For commercial, industrial or business land uses a property owner may have more than forty (40%) percent impervious surface but not more than sixty (60%) percent impervious surface.
- b For properties where the general impervious surface standard applies under Section ZN 3.10(2)(b)1a, a property owner may have more than fifteen (15%) percent impervious surface but not more than thirty (30%) percent impervious surface on the portion of a lot or parcel that is within three hundred (300) feet of the ordinary high-water mark.
- c For properties that exceed the standard under Section ZN 3.10(2)(b)2a and b but do not exceed the maximum standard under Section ZN 3.10(2)(b)2a and b a zoning permit can be issued for development with an approved shoreland permit that details the mitigation plan that meets the standards found in Section ZN 3.10(8) (Mitigation), unless exempt under Section ZN 3.10(2)(b)2f.
- d Treated Impervious Surfaces. Impervious surfaces that can be documented to demonstrate they meet either of the following standards shall be excluded from the impervious surface calculations under Section ZN 3.10(2)(b)1:
  - 1) The impervious surface is treated by devices such as stormwater ponds, constructed wetlands, infiltration basins, rain gardens, bio-swales or other engineered systems.
  - 2) The runoff from the impervious surface discharges to an internally drained pervious area that retains the runoff on or off the parcel and allows infiltration into the soil, such as pervious pavement.
- e Existing Impervious Surfaces. For existing impervious surfaces that were lawfully placed when constructed but that do not comply with the impervious surface

standard in Section ZN 3.10(2)(b) or the maximum impervious surface standard in Section ZN 3.10(2)(b)2, the property owner may do any of the following:

- 1) Maintain and repair the existing impervious surfaces;
- 2) Replace existing impervious surfaces with similar surfaces within the existing building envelope;
- 3) Relocate or modify an existing impervious surface with similar or different impervious surface, provided that the relocation or modification does not result in an increase in the percentage of impervious surface that existed on the effective date of the Village shoreland ordinance, and the impervious surface meets the applicable setback requirements.
- 4) The impervious surface standards in this Ordinance shall not be construed to supersede other provisions in the Village shoreland ordinance. All of the provisions of the Village shoreland ordinance still apply to new or existing development.

f Vegetated Buffer Exemptions. In accordance with the provisions of §59.692(1f), Wis. Stats. This Ordinance shall not require a person to do any of the following:

- 1) Establish a vegetative buffer zone on previously developed land;
- 2) Expand an existing vegetative buffer zone.

**(3) EARTH MOVEMENTS.**

Earth movements such as construction, altering or enlargement of waterways, removal of stream or lake bed materials, channel clearing, dredging, lagooning, grading, topsoil removal, filling, road cutting and ditching require a permit in accordance with Section ZN 3.10(7) of this Ordinance in addition to the permit required from the state agency accordance with the provisions of Wis. Admin. Code §NR 115.04, the requirements of ch. 30, Wis. Stats., and other state and federal laws where applicable, and only if done in a manner designed to minimize erosion, sedimentation and impairment of fish and wildlife habitat and natural scenic beauty. No permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the DNR and FEMA regional offices, and required the applicant to secure all necessary state and federal permits. The standards Section ZN 8.03(4)(a) must be met and 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 and pursuant to Section ZN 8.03(4), the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process

(4) **STRUCTURES.**

All structures, except navigational aids, piers, boat launching facilities and boat houses, and steps and stairs located above the ordinary high water mark and necessary for access to the shoreline, shall not be closer than the shore yard distance as specified in each district of this Ordinance. See Section ZN 5.01(2) for more information.

(a) The Village shall not establish shoreland zoning standards that requires any of the following:

- 1 Approval to install or maintain outdoor lighting in shorelands, impose any fee or mitigation requirement to install or maintain outdoor lighting in shorelands, or otherwise prohibits or regulates outdoor lighting in shorelands if the lighting is designed or intended for residential use.
- 2 Requires any inspection or upgrade of a structure before the sale or other transfer of the structure may be made.

(b) The construction and maintenance of a facility is considered to satisfy the requirements of a shoreland zoning ordinance if:

- 1 The department has issued all required permits or approvals authorizing the construction or maintenance under ch. 30, 31, 281, or 283, Wis. Stats..

A "facility" means any property or equipment of a public utility, as defined in §196.01 (5), Wis. Stats., or a cooperative association organized under ch. 185, Wis. Stats., for the purpose of producing or furnishing heat, light, or power to its members only, that is used for the transmission, delivery, or furnishing of natural gas, heat, light, or power.

(5) **SOIL CONSERVATION PRACTICES, TILLAGE AND GRAZING.**

- (a) Soil conservation practices such as tiles terraces, runoff diversions, and grassed waterways used for erosion control shall not require a permit under Section ZN 3.10(7) of this Ordinance when designed and constructed to Natural Resources Conservation Service technical standards.
- (b) Tillage, grazing, livestock watering, and feeding and application of fertilizers shall be prohibited unless conducted in accordance with applicable County, State and Federal laws and regulations and unless conducted in such a manner as to safe-guard the health, safety and welfare of individuals, animal and aquatic life, in the surrounding environment.

(6) **WISCONSIN SHORELAND MANAGEMENT PROGRAM.**

The use of any parcel of land located within the Village's designated Shoreland-Floodplain area shall be conducted in accordance with the provisions of Wis. Admin. Code §NR 115, Wisconsin's Shoreland Management Program, and in the case of conflict between this Ordinance and the Wis. Admin. Code §NR 115 the provision with the greater restriction shall apply.

**(7) STIPULATED SHORELAND PERMITS.**

Notwithstanding the other requirements set forth in this section, the Department of Planning and Development may issue a stipulated Shoreland Permit for those uses listed in Section ZN 3.10(2) and Section ZN 3.10(6) without requiring a conditional use permit provided that the use shall not be susceptible to flooding, concentrated runoff, inadequate drainage, adverse soil and topographic conditions or any other features likely to be harmful to the environment or the public interest. The Department of Planning and Development shall not issue the stipulated shoreland permit until the applicant agrees to the stipulations and such stipulated shoreland permit is filed and recorded in the Office of Register of Deeds. The Department of Planning and Development shall notify the Wisconsin Department of Natural Resources and the Village Board of the issuance of all stipulated shoreland permits.

**(8) MITIGATION.**

- (a) General Standards. (§59.692(1 v), Wis. Stats., Wis. Admin. Code §NR 115.05 (1)(e)3, Wis. Admin. Code §NR115.05(1)(g)5, and Wis. Admin. Code §NR 115.05(1)(g)6). When the Village issues a permit requiring mitigation in accordance with sections Section ZN 3.10(2) or Section ZN 5.02(11) of this Ordinance the property owner must submit a mitigation plan application that is reviewed and approved by the Village. The application shall include the following:

- 1 A site plan that describes the proposed mitigation measures:
  - a The site plan shall be designed and implemented to restore natural functions lost through development and human activities.
  - b The mitigation measures shall be proportional in scope to the impacts on water quality, near-shore aquatic habitat, upland wildlife habitat, and natural scenic beauty.
- 2 An implementation schedule and enforceable obligation on the property owner to establish and maintain the mitigation measures.
  - a The enforceable obligations shall be evidenced by an instrument recorded in the office of the Register of Deeds.

**(b) Mitigation Options.**

- 1 Vegetative buffer required as mitigation under open sided provision. The property owner shall choose and implement two (2) of the following:
  - a Restoration of native primary vegetative buffer to Village vegetative buffer standards per Section ZN 3.10(8)(d).
  - b The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with Wis. Admin. Code §SPS 383.

- c Stormwater management practices (e.g., stormwater ponds, constructed wetlands, infiltration basins, rain gardens, pervious pavers, bio-swales, water diversions of overland flow or other approved engineered systems).
- 2 Lateral expansion of a non-conforming principal structure located between thirty-five (35) and seventy-five (75) feet from the ordinary high-water mark and which is less than thirty-five (35) feet in height Section ZN 5.02(11)(b), or the replacement or relocation of principal structure located between thirty-five (35) and seventy-five (75) feet from the ordinary high-water mark and which is less than thirty-five (35) feet in height; or new impervious surface area greater than fifteen (15%) percent and/or less than or equal to thirty (30%) percent, and greater than thirty (30%) for highly developed shorelands Section ZN 3.10(2)(b).
  - a Removal of all non-conforming accessory structures located in the shore setback area. This requirement shall not apply to a detached garage which is in good repair and located at least as far from the ordinary high-water mark as the principal structure on the property.
  - b The property owner shall choose and implement two (2) of the following:
    - 1) Restoration of native primary vegetative buffer to Village vegetative buffer standards per Section ZN 3.10(8)(d).
    - 2) The associated private onsite waste treatment system must be evaluated and upgraded as appropriate in compliance with Wis. Admin. Code §SPS 383.
    - 3) Stormwater management practices (e.g., stormwater ponds, constructed wetlands, infiltration basins, rain gardens, pervious pavers, bio-swales, water diversions of overland flow or other approved engineered systems).
- (c) Implementation Schedule. The approved Shoreland Buffer Restoration Site Plan must be started within one (1) year from the issue date of the applicable permit. All plantings and any other activities in the Shoreland Buffer Restoration Site Plan must be completed within two (2) years of the permit issue date.
- (d) Establishment of a Vegetation Buffer Zone.
  - 1 The owner(s) or their agent must submit a plan that will be implemented by the owner of the property to establish, preserve, enhance, and/or restore a vegetative buffer zone that covers at least seventy (70%) percent of the half of the shoreland setback area that is nearest to the water. The plan must be approved by the Village of Somers.

- 2 To be considered for approval a plan to establish, preserve, enhance, and/or restore a vegetative buffer zone following the VEGETATIVE BUFFER STANDARDS described in Appendix “D” and shall, at a minimum, contain:
  - a A binding agreement with the owner, his/her heirs, successors, and assignees, must authorize entrance onto the property by zoning staff for inspections to assure compliance with the plan. The agreement shall be written and recordable on forms provided by the Village of Somers and recorded with the Register of Deeds. This also applies to preservation of an existing natural buffer.
  - b A description of how the landowner intends to carry out the project, including methods, materials, and equipment to be used.
  - c A proposed schedule and sequence of work activities.
  - d The names, descriptions, and densities of native species to be utilized in the restoration work, including ground cover, shrubs, and tree layers.
  - e A description of the site before the project begins and a description of the proposed site once the buffer is completed.
  - f The erosion control measures that will be used during construction of the permitted structure and vegetative buffer zone to control sediment, runoff, and protect water quality.
- 3 Removal of the shoreyard structure will not relinquish the recorded agreement or permit the removal, destruction, degradation, and/or reduction in size of the shoreland vegetative buffer.
- 4 Failure to comply with the plan and/or subsequent removal of vegetation from the vegetative buffer zone will cause the Village of Somers to revoke the permit and order the removal of any structure(s) authorized under the zoning permit.

### **ZN 3.11 MOBILE TOWER SITING REGULATIONS.**

#### **(1) PURPOSE.**

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

It is intended that the Village shall apply these regulations to accomplish to the greatest degree possible the following: (1) minimize adverse effects of mobile service facilities and mobile service support

structures; (2) maintain and ensure that a non-discriminatory, competitive and broad range of mobile services and high quality mobile service infrastructure consistent with the Federal Telecommunications Act of 1996 are provided to serve the community; and (3) provide a process of obtaining necessary zoning permits for mobile service facilities and support structures while at the same time protecting the legitimate interests of Village of Somers citizens.

The Village of Somers encourages the use of alternative support structures, co-location of new antennas on existing support structures and construction of supports structures with the ability to locate at least three (3) additional users (minimum of four (4) total users required for each mobile tower facility).

It is not the intent of this section to regulate residential satellite dishes or residential television antennas that are used privately. Additionally, it is not intended to regulate satellite dishes or antennas whose regulation is prohibited by §59.69(4)(d), Wis. Stats., as it may be amended from time to time.

(2) **DEFINITIONS.**

All definitions contained in §66.0404(1), Wis. Stats., as amended from time to time, are hereby incorporated by reference.

(3) **EXCEPTIONS.**

The following shall be exempt from the requirements to obtain a zoning permit, unless otherwise noted.

- (a) Amateur Radio and/or Receive-Only antennas. This Ordinance shall not govern the installation of any antenna that is owned and/or operated by a federally licensed amateur radio operator and used for amateur radio purposes or is used exclusively for receive-only purposes.
- (b) Mobile services providing public information coverage of news events of a temporary or emergency nature.
- (c) Utility pole mounted antenna if the height of the antenna is thirty (30) feet or less above the highest part of the utility pole.

(4) **SITING AND CONSTRUCTION.**

Siting and Construction of Any New Mobile Service Support Structure and Facilities and Class 1 Collocation:

- (a) Application Process. A zoning permit is required for the siting and construction of any new mobile service support structure and facilities for a Class 1 Collocation if the following substantial modifications are added to the existing mobile service support structure:
  - 1 An increase in the overall height of the structure by more than twenty (20) feet, for structures with an overall height of two hundred (200) feet or less.
  - 2 An increase in the overall height of the structure by ten (10%) percent or more, for structures with an overall height of more than two hundred (200) feet.



- 3 An increase in width of the support structure by twenty (20) feet or more, measured at the level of the appurtenance added to the structure as a result of the modification.
  - 4 An increase in the square footage of an existing equipment compound to a total area of more than two thousand five hundred (2,500) square feet.
- (b) A zoning permit application must be completed by any applicant and submitted to the Department. The application must contain the following information:
- 1 The name, business address and phone number of the contact individual for the applicant. The applicant should include an email address if available.
  - 2 The location of the proposed affected support structure.
  - 3 The location of the proposed mobile service facility.
  - 4 If the applicant does not own the site or the tower, the applicant must provide an agent letter or lease agreement that provides consent from the property owner. The applicant should also provide the legal descriptions and amount of property leased.
  - 5 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. The construction plan shall include a sketch concept or rendering of the site and a scaled site plan which shows property lines, lease areas, setback distances, structures including support structure, buildings, equipment pads, and fencing.
  - 6 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. The construction plan shall include a sketch concept or rendering of the site and a scaled site plan which shows property lines, lease areas, setback distances, structures including support structure, buildings, equipment pads, and fencing. The Department may also request the submittal of propagation maps.
  - 7 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) An application for a zoning permit shall be made available by the Department upon request by any applicant.
- (d) Completed Applications. If an applicant submits to the Department an application for a zoning permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Department shall consider the application complete. If the Department does not believe that the application is complete, the Department shall notify the applicant in writing, within ten (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) In the event the department determines that it is necessary to consult with a third party in considering a zoning permit application, all reasonable costs and expenses, excluding travel expenses, associated with such consultation shall be borne by the applicant. Failure to pay such costs and expenses or to provide information requested by the department shall be grounds for denial or revocation of the zoning permit.
- (f) Department Responsibilities. Within ninety (90) days of its receipt of a complete application, the Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Department may agree in writing to an extension of the ninety (90) day period:
  - 1 Review the application to determine whether it complies with all applicable aspects of the Village's zoning ordinance.
  - 2 Make a final decision whether to approve or disprove the application.
  - 3 Notify the applicant, in writing, of its final decision.
  - 4 If the decision is to disprove the application, include with the written notification substantial evidence which supports the decision.
- (g) Disapproval. The Department may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under Section ZN 3.11(4)(b)6.
- (h) Application of Set Back/Fall Zone. If an applicant provides the Department 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 areas required in a zoning ordinance (Section ZN 5.01(1)(b)) that zoning ordinance does not apply to such a structure unless the Department provides the applicant with substantial evidence that the engineering certification is flawed.
- (i) Fees. The fee for a zoning permit relating to construction of a new mobile service support structure and facility or for a Class 1 Collocation is listed in the Department's Fee Schedule.

- (j) Limitations. The zoning permits for Siting and Construction of any new mobile service support structure and facilities and for any Class 1 Collocation shall only be granted provided the following conditions exist:
- 1 The applicant has obtained Federal Communications Commission (FCC) license numbers and registration numbers if applicable.
  - 2 The applicant and/or agent have copies of Findings of No Significant Impacts (FONI) statement from the Federal Communications Commission (FCC) or Environmental Assessment or Environmental Impact Study (EIS), if applicable.
  - 3 The applicant and /or agent have copies of the determination of no hazard from the Federal Aviation Administration (FAA) including any aeronautical study determination or other findings, if applicable.
  - 4 The applicant and/or agent have copies of an Affidavit of Notification indicating that all operators and owners of public or private airports and landing strips located within five (5) miles of the proposed site have been notified via certified mail.
  - 5 If the location of the proposed mobile service support structure or mobile service facility is on leased land, the lease agreement does not preclude the lessee from entering into leases on the site with other provider(s) and there is no other lease provision operating as a bar to collocation of other providers.

(5) **CLASS 2 COLOCATION.**

- (a) A zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use, but still requires the issuance of a zoning permit.
- (b) A zoning permit application must be completed by any applicant and submitted to the Department. The application must contain the following information:
- 1 The name, business address and the phone number of the contact individual for the applicant. The applicant should include an email address if available.
  - 2 The location of the proposed or affected mobile service support structure.
  - 3 The location of the proposed mobile service facility.
- (c) A zoning permit application will be provided by the Department upon request to any applicant.
- (d) Requirements. A class 2 collocation is subject to the same requirements for the issuance of a zoning permit to which any other type of commercial development or land use development is subject.

This will require construction plans which describe the proposed equipment and network components including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the existing mobile service support structure. The construction plan shall include a scaled site plan which shows property lines, lease areas, structures including support structure, buildings, equipment pads, and fencing.

- (e) Completed Applications. If an applicant submits to the Department an application for a zoning permit to engage in an activity described in this Ordinance, which contains all of the information required under this Ordinance, the Department shall consider the application complete. If any of the required information is not in the application, the Department shall notify the applicant in writing, within five (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) Department Requirements. Within forty-five (45) days of its receipt of a completed application, the Department shall complete all of the following or the applicant may consider the application approved, except that the applicant and the Department may agree in writing to an extension of the forty-five (45) day period:
  - 1 Make a final decision whether to approve or disprove the application.
  - 2 Notify the applicant, in writing, of its final decision.
  - 3 If the application is approved, issue the applicant the relevant zoning permit.
  - 4 If the decision is to disprove the application, include with the written notification substantial evidence which supports the decision.
- (g) Fees. The fee for a zoning permit relating to a Class 2 Colocation is listed in the Department's Fee Schedule.
- (6) **ABANDONMENT, REMOVAL AND SECURITY FOR REMOVAL.**
  - (a) The recipient of a zoning permit allowing a mobile service support structure and facility under this section, or the current owner or operator, shall notify the Department within forty-five (45) days of the date when the mobile service facility is no longer in operation.
  - (b) Abandonment: any antenna, mobile service facility, or mobile service support structure that is not operated for a continuous period of twelve (12) months shall be considered abandoned. Upon application, the Village Board may extend the time limit to abandon once for an additional twelve (12) month period. Such extension shall be based on the finding that the owner or zoning permit holder is actively seeking tenants for the site.

If abandonment is determined to have occurred, the owner of such antenna, mobile service facility or mobile service support structure shall remove said antenna, mobile service facility or mobile service support structure, including all supporting equipment, building(s) and

foundations to the depth as otherwise herein required within ninety (90) days of receipt of notice from the Department notifying the owner of such abandonment. If removal to the satisfaction of the Department does not occur within said ninety (90) days, the Planning and Zoning Director may order removal utilizing the established bond or letter of credit discussed below. If there are two (2) or more users of a single tower, abandonment shall not be determined to have occurred until all operation of the tower ceases by all users.

- (c) **Removal.** It is the express policy of the Village and this Ordinance that mobile service support structures be removed once they are no longer in use and not a functional part of providing mobile service and that it is the mobile service support structure owner's responsibility to remove such mobile service support structures and restore the site to its original condition or a condition approved by the Department. After a mobile service support structure is no longer being used for mobile service that is in operation, the mobile service support structure owner shall have ninety (90) days to effect removal and restoration unless weather prohibits such efforts. This restoration shall include removal of any subsurface structure or foundation, including concrete, used to support the mobile service support structure down to five (5) feet below the surface. The owner shall record a document with the Kenosha County Register of Deeds showing the existence of any subsurface structure remaining below grade. Such recording shall accurately set forth the location and describe the remaining structure.
- (d) **Security for Removal.** Before the issuance of any zoning permit, a performance bond or letter of credit shall be provided to the Village to guarantee that a structure that has ceased being used for mobile services facilities is removed. The bond amount shall be the lesser of Twenty Thousand (\$20,000.00) Dollars or an amount based on a written estimate of a person qualified to remove such structures. The Village of Somers will be named as the recipient of the bond or letter of credit and the Village is entitled to approve the bonding company. If necessary, the Village may require an increase in the bond amount after five (5) year intervals to reflect increases in the Consumer Price Index, but at no point shall the bond amount exceed Twenty Thousand (\$20,000.00) Dollars.

(7) **MOBILE SERVICE SUPPORT STRUCTURE, ANTENNA AND FACILITIES REQUIREMENTS.**

All mobile service facilities and mobile service support structures, except exempt facilities as defined in Section ZN 3.11(3), shall be designed as follows:

- (a) Mobile Service support structures shall be constructed of metal or other non-flammable material, unless specifically permitted by the Department to be otherwise.
- (b) Mobile service support structures towers, guy wires, appurtenant equipment, and buildings shall comply with the yard and setback requirements of the zoning district in which they are located.
- (c) Mobile service facilities, support structures and antennas shall be designed and constructed in accordance with all other applicable local, state and federal codes.
- (d) Equipment compounds shall meet the site plan requirements set forth in Section ZN 3.02(2) and this shall be applicable in all zoning districts.

- (e) Mobile service facilities and support structures shall not interfere with or obstruct existing or proposed public safety, fire protection or Supervisory Controlled Automated Data Acquisition (SCADA) operation telecommunication facilities. Any actual interference and/or obstruction shall be corrected by the applicant at no cost to the Village.
- (f) All mobile service facilities and support structures, except exempt facilities, shall be designed to blend into the surrounding environment to the greatest extent feasible. The tower location shall provide for the maximum amount of screening of the facilities. The site shall be landscaped and maintained with a buffer of plant materials that effectively screen the view of all facility structures, equipment and improvements at ground level from adjacent properties. The standard buffer shall consist of a landscaped strip of at least four (4) feet wide outside the perimeter of the area where the tower accessory structures and equipment are located at ground level. In locations where the visual impact of the facility would be minimal the landscaping requirements may be reduced or waived by the Department. Existing mature vegetation and natural landforms on the site shall be preserved to the maximum extent possible or replaced with vegetative screening meeting the intent of this section. Upon project completion, the owner(s)/operator(s) of the facility shall be responsible for maintenance and replacement of all required landscaping during the current growing season.
- (g) Access to the mobile service facilities and support structures must be provided by an all weather gravel or paved driveway.
- (h) The applicant has obtained a report prepared by an engineer licensed by the State of Wisconsin certifying the structural design of the tower and its ability to accommodate three (3) additional antennas.
- (i) Accessory buildings, structures, cabinets and other accessory facilities may be allowed and shall not exceed fifteen (15) feet in height, measured from the original grade, and two hundred fifty (250) square feet in area. All visible surfaces shall be constructed of non-reflective materials and designed to blend with the existing architecture in the area to the greatest extent feasible.
- (j) Noise and Traffic. All mobile service facilities shall be constructed and operated in such a manner as to minimize the amount of disruption caused to nearby properties. To that end the following measures shall be implemented for all mobile service facilities, except exempt facilities as defined in Section ZN 3.11(3):
  - 1 Noise producing construction activities shall take place only on weekdays (Monday through Saturday, non-holiday) between the hours of 6:00 a.m. and 6:00 p.m., except in times of emergency repair.
  - 2 Backup generators, if present, shall be operated only during power outages and for testing and maintenance purposes. Emergency back-up generators shall be completely enclosed on all sides and other efforts to mitigate noise from such generators may be required.

- (k) The facility or colocation is designed to promote site sharing, such that space is reasonably available to colocators and such that telecommunication towers and necessary appurtenances, including but not limited to parking areas, access road, and utilities, are shared by site users whenever possible.

**(8) LOCATION AND SEPARATION REQUIREMENTS.**

A good faith effort should be made to have mobile service support structures separated by a minimum of five thousand two hundred eighty (5,280) feet, measured from the base of the existing structure to the base of the proposed structure. Two (2) mobile service support structures may be permitted to be located closer if the applicant provides a sworn statement to the Department from an individual who has responsibility over the placement of the mobile service support structure attesting that colocation within the applicant's search ring would not result in the same mobile service functionality, coverage and capacity, is technically infeasible, or is economically burdensome to the mobile service provider. The Department may request other supporting documentation, drawings and information to evaluate the applicant's request and/or assist in a third-party review.

A mobile service facility is encouraged to locate on existing mobile towers or on alternative support structures, such as clock towers, chimneys, steeples, barns, silos, light poles, buildings, water towers or similar structures, provided that the placement of the antenna will not extend more than six (6) feet from the structure.

**(9) SEVERABILITY.**

If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are severable.

**(10) LIABILITY.**

The Department does not warrant any mobile service support structure against design or structural failure. The Department does not certify that the design is adequate for any tower and the Department hereby accepts no liability through the issuance of a zoning permit.

**(11) TRANSFERABILITY OF MOBILE TOWER SITING ZONING PERMITS.**

Zoning permits granted under this section go with the land and are transferable. Zoning permits granted under this section are not limited in duration. All section and zoning permit requirements shall apply to subsequent owners. The department shall be notified of any change in ownership including, but not limited to facility leases, mortgages, liens or other instruments which may affect title to the property.

**(12) STANDARDS FOR KEEPING DOMESTIC FOWL IN SINGLE-FAMILY RESIDENTIAL YARDS.**

- (a) Purpose. The purpose and intent of this section is to provide a listing of standards that shall apply to the keeping of domestic fowl in the yards of single-family residences. Only parcels of a minimum of in excess of one (1) acre shall be eligible for a zoning permit for a zoning permit for domestic fowl to be issued hereunder. For purposes of determining the size of a single-family residential lot under this section, any of the following documents shall be presumptive to

establish minimum lot size required hereunder: the parcel size listed on the official tax records/tax bill maintained by the Village; the Land Information statistics maintained by Kenosha County either by the Kenosha County Land Information Office or on the official Kenosha County website; a recorded legal description; or a survey map created by a registered land surveyor which confirms a lot contains not less than forty-three thousand five hundred sixty (43,560) square feet. Only owners of qualified parcels shall be eligible for a zoning permit referred to in this section. The standards are designed to ensure that the keeping of fowl is done in a responsible manner that protects the public health, safety, and welfare and avoids conflicts with neighboring uses.

- (b) Use. The keeping of six (6) domestic fowl, none of which shall be roosters, in the yards of single-family residences located in single-family residential zoning districts shall be a permitted use, if such use complies with the following:
  - 1 Domestic fowl shall not be slaughtered on the permitted parcel.
  - 2 Domestic fowl must have access to a covered enclosure.
  - 3 Domestic fowl shall not be allowed to roam free and must be kept in a covered enclosure or fenced enclosure at all times.
  - 4 Covered and fenced enclosures must be clean, dry and odor-free, and kept in a manner that will not disturb the use or enjoyment of adjacent lots.
- (c) Permits for covered enclosures. Zoning permits shall be required prior to the erection, placement or construction of covered enclosures.
- (d) Location of covered and fenced enclosures.
  - 1 Covered and fenced enclosures shall be within the rear or side yard.
  - 2 Covered and fenced enclosures shall not be closer than fifty (50) feet to any residential structure on an adjacent lot.
  - 3 Covered and fenced enclosures shall not be located closer than seventy-five (75) feet from the ordinary high water mark of any lake, river, or stream.
- (e) Violations. Any violation of these standards shall be subject to the imposition of a fine of not less than Twenty-five (\$25.00) Dollars nor more than Fifty (\$50.00) Dollars per day. Each day of violation shall constitute a separate offense.
- (f) Sunset Provision. This Ordinance shall become effective upon passage but shall be repealed upon the adoption of a new or modified Comprehensive Plan by the Village Board.



## **ZN 3.12 SMALL WIND ENERGY SYSTEMS.**

### **(1) PURPOSE.**

The purpose of this section is to adopt and incorporate the requirements of §66.0401, Wis. Stats. and Wis. Admin. Code §PSC 128 as a local ordinance and to establish local regulations on the installation and use of small wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve or protect the public health or safety, do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost or efficiency.

#### **(a) Statutes, Regulations and Rules.**

- 1 This section is subject to the provisions of the Wisconsin Statutes and all regulations and rules promulgated thereunder.
- 2 Section 66.0401, Wis. Stats. and Wis. Admin. Code §PSC 128 are adopted and incorporated by reference.

### **(2) DEFINITIONS.**

All definitions contained in §66.0401, Wis. Stats. and Wisconsin Admin. Code §PSC 128 as amended from time to time, are hereby incorporated by reference.

### **(3) ZONING PERMIT REQUIRED.**

- (a) An owner must apply for and receive a zoning permit from the Department of Planning and Development (hereinafter referred to as the "Department") before installing, constructing, or expanding any small wind energy system.
- (b) The owner must pay an application fee at the time the application for a small wind energy system is filed with the Department.
- (c) A zoning permit issued by the Department expires if construction of the small wind energy system is not commenced within eighteen (18) months from the date of the permit or if the small wind energy system is not installed and functioning within twelve (12) months from the date construction begins.

### **(4) APPLICATION REQUIREMENTS.**

- (a) The owner must file an application that contains the information specified in Wis. Admin. Code §PSC 128.30, except as modified by Wis. Admin. Code §PSC 128.61(6).
- (b) A plan shall be submitted that includes information specified in Section ZN 2.02(1)(h). The owner must also provide the following additional information on the plan or as part of the permit application:
  - 1 Location of any overhead utility lines on or adjacent to the property.

- 2 Description and specifications of the components of the small wind energy system, including the manufacturer, model, capacity, blade length, and total height of the small wind energy system; and
- 3 Blueprints or drawings which have been approved by a registered professional engineer for any tower and tower foundation.

**(5) FILING REQUIREMENTS.**

- (a) Any document or paper required to be filed with the Village pursuant to Wis. Admin. Code §PSC 128 or this Ordinance must be filed at or delivered to the Department's office.
- (b) Any document, paper, or other material submitted to the Village that relates to an application must be delivered to the Department's office.
- (c) Any document or paper filed or otherwise submitted by an owner or any other interested party that relates to an application must be 8-1/2 x 11 inches in size. A person who wishes to submit a paper that is larger than 8-1/2 x 11 inches in size shall also submit reduced copy that is 8-1/2 x 11 inches in size.

**(6) CONDITIONS REQUIRED FOR APPROVAL.**

- (a) An owner shall provide information showing that it has complied with the notification requirements of Wis. Admin. Code §PSC 128.105(1), as modified by Wis. Admin. Code §PSC 128.61(1).
- (b) An owner shall provide information showing that it has complied with the notification requirements specified in Wis. Admin. Code §PSC 128.14(6), as modified by Wis. Admin. Code §PSC 128.61(4).

**(7) ABANDONMENT AND DECOMMISSIONING.**

- (a) A small wind energy system that does not generate electricity for a continuous period of five hundred forty (540) days will be deemed abandoned and the Department may issue a Notice of Abandonment to the owner.
- (b) If, within thirty (30) days of receipt of a Notice of Abandonment, the owner provides the Department with information showing that the small wind energy system has not been abandoned, the Department will withdraw the Notice.
- (c) Unless the Department withdraws the Notice of Abandonment, a small wind energy system tower must be decommissioned as prescribed by Wis. Admin. Code §PSC 128.19. If the owner fails to remove a small wind energy system and reclaim the site, the Village may remove or cause the removal of the small wind energy system and arrange for the reclamation of the site. The cost of removal and reclamation will become a lien upon the property and may be collected in the same manner as property taxes.

(8) **CODE COMPLIANCE.**

A small wind energy system must comply with the National Electrical Code and all applicable state construction and electrical codes. The owner must provide certification from a state licensed inspector showing that the small wind energy system complies with all applicable codes before placing the small wind energy system into operation.

(9) **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, must be located underground.

(10) **EMERGENCY COMMUNICATIONS CORRIDORS.**

- (a) An owner may not construct wind energy systems facilities within an emergency communication corridor, which is defined as the area within an existing line-of-sight communication path that is used by a government or military entity to provide services essential to protect public safety.
- (b) An owner shall provide information showing that wind energy systems facilities will be in compliance with sub. (a).
- (c) Village will provide the locations of emergency communication services and line-of-site corridors that are essential to protect public safety.

(11) **EQUIPMENT ACCESS.**

All ground-mounted electrical and control equipment must be labeled and secure to prevent unauthorized access.

- (a) An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
- (b) An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
- (c) An owner shall place appropriate warning signage on or at the base of each wind turbine.
- (d) An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.

(12) **LIGHTING.**

A small wind energy system may be artificially lighted only if lighting is required by the Federal Aviation Administration.

An owner shall use shielding or control systems approved by the federal aviation administration to reduce visibility of light to individuals on the ground.

(13) **NOISE.**

- (a) The noise generated by the operation of a small wind energy system may not exceed 50 db(A) during the daytime hours and 45 db(A) during the nighttime hours as measured at the outside wall of a non-participating residence or occupied community building that existed when the owner gave notice pursuant to Wis. Admin. Code §PSC 128.105(1) or for which complete publicly available plans for construction were on file with a political subdivision within thirty (30) days of the date when the owner gave notice pursuant to Wis. Admin. Code §PSC 128.105(1).
- (b) The owner of an adjacent non-participating residence or adjacent occupied community building may relieve the owner of the small wind energy system of the requirement to meet any of the noise limits in this section by written contract as provided in Wis. Admin. Code §PSC 128.14(5) and (6).
- (c) The owner shall provide the notice as prescribed by Wis. Admin. Code §PSC 128.61(4).
- (d) If an owner receives a complaint of a violation of the noise standards contained in Wis. Admin. Code §PSC 128.14 and the owner has not provided the Department with the results of an accurate test conducted within two (2) years prior to the date of the complaint showing that the small wind energy system is in compliance with the noise standard at the location relating to the complaint, the owner shall promptly conduct a noise study to evaluate compliance with the noise standards at that location using the most current version of the noise measurement protocol as described in Wis. Admin. Code §PSC 128.50(2).

(14) **OWNERSHIP CHANGE.**

- (a) An owner shall provide the Village with notice of any change in ownership of the small wind energy system on or before the effective date of the change.

(15) **STATE AND FEDERAL PERMITS.**

- (a) An owner shall submit a copy of all necessary state and federal permits and approvals to the Department.

(16) **SETBACKS.**

- (a) A small wind energy system must be set back at least one (1) times the maximum blade tip height from any non-participating property line, non-participating residence, occupied community building or overhead communication and electrical transmission line, not including utility service lines to individual houses or outbuildings.
- (b) The owner of an adjacent non-participating residence or adjacent occupied community building may waive the required setback distance.

(17) **SIGNAL INTERFERENCE**

- (a) An owner shall use reasonable efforts to avoid causing interference with commercial and personal communications in use when the wind energy system begins operation to the extent practicable.
- (b) If necessary, an owner shall, under a protocol established by Wis. Admin. Code §PSC 128.50(2), implement a new technology solution that becomes commercially available before the small wind energy system is decommissioned to address interference.

(18) **UTILITY INTERCONNECTION.**

- (a) A small wind energy system that connects to the electric utility must comply with Wis. Admin. Code §PSC 119, Rules for Interconnecting Distributed Generation Facilities.

(19) **CONSTRUCTION, OPERATION AND MAINTENANCE STANDARDS.**

An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition in a manner that protects individuals from injury.

An owner shall notify the Village of the occurrence and nature of a wind energy system emergency within twenty-four (24) hours of the wind energy system emergency.

(20) **APPLICATION PROCESSING.**

- (a) The application for a zoning permit will be processed following the procedures set forth in §66.0403, Wis. Stats.
- (b) An owner shall, on the same day that it files an application for a small wind energy system, use commercially reasonable methods to provide written notice of the filing of the application to property owners and residents located adjacent to the small wind energy system. The notice shall contain the information specified in Wis. Admin. Code §PSC 128.30(5).
- (c) Upon receipt of an application, the Department shall publish the notice required by §66.0401(4)(a)(1), Wis. Stats. and Wis. Admin. Code §PSC 128.30(5)(b).
- (d) The Department will accept written comments on the application for a period of ten (10) days following the date of the published notice.
- (e) If the permit application is denied, the Department will notify the owner in writing and provide a written statement of the reason why the application was denied. The owner may appeal the Department's decision to the Board of Review as provided by these Ordinances.

(21) **COMPLETENESS REVIEW.**

- (a) An application is complete if it complies with the filing requirements of this Ordinance and of Wis. Admin. Code §PSC 128.30(2) and Wis. Admin. Code §128.50(1).

- (b) An application is considered filed the day the owner notifies the Department in writing that all the application materials have been filed.
- (c) The Department shall determine the completeness of an application and shall notify the owner in writing of the completeness determination no later than forty-five (45) days after the day the application is filed.
- (d) If the Department determines that the application is incomplete, it shall provide the owner with written notice stating the reasons for the determination. The owner shall provide additional information specified in the notice, and an additional forty-five (45) day completeness review period will begin the day after the Department receives responses to all items identified in the notice.
- (e) If the owner fails to provide additional information specified in the notice of an incomplete application within ninety (90) days, the application will be deemed abandoned. The owner may re-file the application at a later date, subject to payment of a new application fee. There is no limit to the number of times that an owner may re-file an application.
- (f) If the Village does not make a completeness determination within the applicable review period, the application is considered to be complete.

**(22) REQUESTS FOR ADDITIONAL INFORMATION.**

- (a) The Department may request additional information necessary to understand the small wind energy system after determining that an application is complete.
- (b) An owner shall provide additional information in response to all reasonable requests.
- (c) An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete and accurate manner.
- (d) If the owner fails to provide additional information requested within ninety (90) days, the application will be deemed abandoned. The owner may re-file the application at a later date, subject to the payment of a new application fee. There is no limit to the number of times that an owner may re-file an application.

**(23) APPROVAL REVIEW.**

- (a) The Department shall have ninety (90) days from the date that it notifies the owner that the application is complete in which to approve or disapprove the application.
- (b) The review period may be extended upon written notice to the applicant for one or more of the following reasons; but the total time for all extensions may not exceed an additional ninety (90) days:

- 1 Up to forty-five (45) days if additional information is needed.

- 2 Up to ninety (90) days if the applicant makes a material modification to the application.
- 3 Up to ninety (90) days for other good cause specified in writing.
- (c) If the Department fails to act within the ninety (90) days, or within any extended time period, the application will be considered approved.
- (24) **WRITTEN DECISION.**
  - (a) The Department shall issue a written decision to grant or deny an application for a small wind energy system. The written decision must include findings of fact supported by evidence in the record. If an application is denied, the decision must specify the reason for the denial.
  - (b) The Department shall provide a duplicate original of its written decision to the owner and the public services commission (hereinafter referred to as the “commission”).
  - (c) The owner shall record the duplicate original of a decision approving an application with the register of deeds.
- (25) **MODIFICATIONS.**
  - (a) An owner shall comply with Wis. Admin. Code §PSC 128.35 before making any material change to a small wind energy system.
  - (b) The Department will conduct a review of any application for a material change in a small wind energy system as provided for in Wis. Admin. Code §PSC 128.35(2).
- (26) **DECOMMISSIONING REVIEW.**
  - (a) An owner shall file a notice of decommissioning completion with the Village and any political subdivision within which its small wind energy systems facilities are located when a small wind energy system approved by the Village has been decommissioned and removed.
  - (b) The Department shall conduct a decommissioning review to determine whether the owner has decommissioned and removed the small wind energy system as required by Wis. Admin. Code §PSC 128.19(1)(a).
  - (c) The owner shall cooperate with the Village by participating in the decommissioning review process.
- (27) **APPEALS.**
  - (a) A decision by the Department that the application is incomplete, or to approve or disapprove the application, or to impose a restriction on a small wind energy system may be appealed in accordance with the procedures set forth in Section ZN 7.01(1) to Section ZN 7.01(8) or by appealing to the commission under §66.0401(5), Wis. Stats.

- (b) Any action by the Village to enforce a restriction on a small wind energy system may be appealed to the commission.
- (c) An appeal must be filed with the commission within thirty (30) days after the date of the decision or the start of the enforcement action that is being appealed.
- (28) **COMPLAINT PROCESS.**
  - (a) An aggrieved person who has made a complaint to an owner in accordance with Wis. Admin. Code §PSC 128.40 may petition the Village for review of the complaint if it has not been resolved within forty-five (45) days of the day the owner received the original complaint.
  - (b) The petition for review must be filed with the Department within ninety (90) days of the date of the original complaint.
  - (c) The petition must include the following:
    - 1 Name, address, and telephone number of the person filing the petition
    - 2 Copy of the original complaint to the owner
    - 3 Copy of the owner's initial response
    - 4 Statement describing the unresolved complaint
    - 5 Statement describing the desired remedy
    - 6 Any other information the complainant deems relevant to the complaint
    - 7 Notarized signature of the person filing the petition.
  - (d) The Department shall forward a copy of the petition to the owner by certified mail within ten (10) days of the Department's receipt of the petition.
  - (e) The owner shall file an answer to the petition with the Department and provide a copy of its answer to the complainant within thirty (30) days of its receipt of the petition.
  - (f) The answer must include the following:
    - 1 Name, address and telephone number of the person filing the answer
    - 2 Statement describing the actions taken by the owner in response to the complaint
    - 3 Statement of the reasons why the owner believes that the complaint has been resolved or why the complaint remains unresolved



- 4 Statement describing any additional action the owner plans or is willing to take to resolve the complaint
  - 5 Any other information the owner deems relevant to the complaint
  - 6 Notarized signature of the person filing the answer.
- (g) The complainant and the owner may, within thirty (30) days following the owner's filing of its answer, file such additional information with the Department as each deems appropriate.
  - (h) The Department may request such additional information from the complainant and the owner as it deems necessary to complete its review.
  - (i) The Department may retain such consultants or experts as it deems necessary to complete its review.
  - (j) The Department shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
  - (k) The Department's decision and enforcement action is subject to review under §66.0401(5). Wis. Stats.

### **ZN 3.13 LARGE WIND ENERGY SYSTEMS.**

#### **(1) PURPOSE.**

The purpose of this section is to adopt and incorporate the requirements of §66.0401, Wis. Stats. and Wis. Admin. Code §PSC 128 as a local ordinance and to establish local regulations on the installation and use of large wind energy systems that are authorized by, compliant with, and no more restrictive than the rules promulgated by the Wisconsin Public Service Commission and that serve to preserve or protect the public health or safety, do not significantly increase the cost of the system or significantly decrease its efficiency, or allow for an alternative system of comparable cost and efficiency. Local regulations on the installation and use of small wind energy systems are contained in Section ZN 3.12(1).

#### **(a) Statutes, Regulations and Rules.**

- 1 This section is subject to the provisions of the Wisconsin Statutes and all regulations and rules promulgated thereunder.
- 2 Section 66.0401, Wis. Stats. and Wis. Admin. Code §PSC 128 are adopted and incorporated by reference.

#### **(2) DEFINITIONS.**

All definitions contained in §66.0401, Wis. Stats. and Wisconsin Admin. Code §PSC 128 as amended from time to time, are hereby incorporated by reference.

(3) **ZONING PERMIT REQUIRED.**

- (a) An owner must obtain the Village's approval before constructing a wind energy system or expanding an existing or previously approved wind energy system, and no wind turbine may be installed, constructed, or expanded without a zoning permit issued for a principal commercial structure by the Department under Section ZN 2.02(1).
- (b) The owner must pay an application fee at the time the application for a wind energy system is filed with the Department. See Section ZN 3.13(22) for additional required fees.
- (c) A zoning permit issued by the Department expires if construction of the wind energy system is not commenced within twenty-four (24) months from the date of the permit.

(4) **APPLICATION REQUIREMENTS.**

- (a) An owner shall file an original application which contains the information required by Wis. Admin. Code §PSC 128.30(2) with the Division of Planning and Development (hereinafter referred to as the "Department.")
- (b) The owner shall submit eleven (11) copies of the application to the Department and one copy of the application to the clerk of each municipality in which any wind energy system facility is proposed to be located.
- (c) The owner may submit one (1) digital copy of the application to the Department in a format that is acceptable to the Department.
- (d) Each copy of the application shall include all documents, drawings, maps, worksheets, and other materials that are included in the original application.

(5) **FILING REQUIREMENTS.**

- (a) Any document or paper required to be filed with the Village pursuant to Wis. Admin. Code §PSC 128 or this Ordinance must be filed at or delivered to the Department's office.
- (b) Any document, paper, or other material submitted to the Village that relates to an application must be delivered to the Department's office or submitted to the Department on the record at a public hearing.
- (c) Any document or paper filed or otherwise submitted by an owner or any other interested party that relates to an application must be 8-1/2 x 11 inches in size. A person who wishes to submit a paper that is larger than 8-1/2 x 11 inches in size shall also submit a reduced copy that is 8-1/2 x 11 inches in size.

(6) **CONDITIONS REQUIRED FOR APPROVAL.**

- (a) An owner shall provide information about whether it has consulted with and received any non-binding recommendations for construction, operating, or decommissioning the wind energy

system from any federal or state agency and whether the owner has incorporated the non-binding recommendation into the design of the wind energy system.

- (b) An owner shall cooperate with any study of the effects of wind energy systems that is coordinated by a state agency.
- (c) An owner shall submit a copy of all necessary state and federal permits and approvals to the Village.
- (d) An owner shall provide information showing that it has complied with the notification requirements specified in Wis. Admin. Code §PSC 128.105(1), §PSC 128.14(6) and §PSC 128.15(5).
- (e) An owner shall provide information showing that it has complied with the financial responsibility requirements specified in Section ZN 3.13(10).
- (f) An owner shall submit a copy of all necessary state and federal permits and approvals to the Village within thirty (30) days of the owner's receipt of any permit or approval that was not provided with the owner's application.

**(7) AERIAL SPRAYING.**

An owner shall offer an agreement that includes monetary compensation to a farm operator farming on a non-participating property located within one-half (½) mile of a constructed wind turbine if the farm operator demonstrates all of the following:

- (a) Substantial evidence of a history, before the wind energy system owner gives notice under Wis. Admin. Code §PSC 128.105(1), of using aerial spraying for pest control or disease prevention for growing potatoes, peas, snap beans, or sweet corn on all or part of the farm field located within one-half (½) mile of a constructed wind turbine.
- (b) A material reduction in potato, pea, snap bean, or sweet corn production or a material increase in application costs on all or part of a farm field located within one-half (½) mile of a constructed wind turbine as a result of the wind energy system's effect on aerial spraying practices.

**(8) ANNUAL REPORTS**

An owner shall, on or before January 31 of each year, file an annual report with the Department documenting the operation and maintenance of the wind energy system during the previous calendar year.

**(9) EMERGENCY PROCEDURES**

- (a) An owner shall establish and maintain a liaison with each political subdivision within which its wind energy system facilities are located and with fire, police, and other appropriate first responders serving the area in which the wind energy system facilities are located in order to create effective emergency plans as required by Wis. Admin. Code §PSC 128.18(4)(b).

- (b) An owner shall distribute a copy of its emergency plans to the following:
- 1 Kenosha County Office of Emergency Management  
Attn: Emergency Management Director  
1000 55<sup>th</sup> Street  
Kenosha, WI 53140-3707
  - 2 Kenosha County Sheriff's Department  
Attention: Kenosha County Sheriff  
1000 55<sup>th</sup> Street  
Kenosha, WI 53140
  - 3 Clerk for any town or village within which its wind energy system facilities are located or that are within one-half (½) mile of any of its wind energy systems facilities.
  - 4 Clerk for any city within one-half (½) mile of any of its wind energy systems facilities.
  - 5 Any fire, police, or other first responder identified by the county's emergency management director or the clerk of any city, village, or town who has received a copy of the owner's emergency plans.
- (c) An owner shall provide annual training for the county's emergency management department, sheriff's department, and any other fire, police, or other first responder identified in the owner's emergency plans. An owner shall provide at least eight (8) hours of training during each calendar year and is responsible for all direct training costs.
- (d) If an owner is required to implement its emergency plans as the result of a wind energy system emergency, it shall conduct a review of employee activities to determine whether the procedures were effectively followed. The owner shall provide the county's emergency management director with a copy of its review. If the review results in any changes to its emergency plans, the owner shall distribute the revised emergency plans as provided in sub. (b).
- (e) An owner shall notify the county of the occurrence and nature of a wind energy system emergency within twenty-four (24) hours of the wind energy system emergency.
- (10) **FINANCIAL RESPONSIBILITY.**
- (a) An owner with a nameplate capacity of one megawatt or larger shall provide the Village with financial assurance of the owner's ability to pay the actual and necessary cost to decommission the wind energy system before commencing major civil construction activities.
- (b) An owner shall provide the Village with three (3) estimates of the actual and necessary cost to decommission the wind energy system. The cost estimates shall be prepared by third parties agreeable to the owner and the Village. The amount of financial assurance required by the Village will be the average of the three (3) estimates.

- (c) An owner shall establish financial assurance that is acceptable to the Village and that places the Village in a secured position. The financial assurance must provide that the secured funds may only be used for decommissioning the wind energy system until such time as the Village determines that the wind energy system has been decommissioned, as provided for in Wis. Admin. Code §PSC 128.19(5)(b), or the Village approves the release of the funds, whichever occurs first. The financial assurance must also provide that the Village may access the funds for the purpose of decommissioning the wind energy system if the owner does not decommission the system when decommissioning is required.
  - (d) The Village may periodically request information from the owner regarding industry costs for decommissioning the wind energy system. If the Village finds that the future anticipated cost to decommission the wind energy system is at least ten (10%) percent more or less than the amount of financial assurance provided under this section, the Village may correspondingly increase or decrease the amount of financial assurance required.
  - (e) The Village may require an owner to submit a substitute financial insurance of the owner's choosing if an event occurs that raises material concern regarding the viability of the existing financial assurance.
- (11) **INFORMATION.**
- (a) An owner shall, within thirty (30) days of consulting with any federal or state agency about the construction, operation, or decommissioning of the wind energy system, provide the Village with information about the reason for the consultation.
  - (b) An owner shall, within thirty (30) days of receiving any non-binding recommendation for the construction, operation, or decommissioning of the wind energy system from any federal or state agency, provide the Village with information about the consultation and recommendation and whether the owner has incorporated the non-binding recommendation into the design of the wind energy system.
- (12) **EQUIPMENT ACCESS AND CONDITION.**
- (a) An owner shall take appropriate measures to ensure that a wind turbine is not readily climbable except by authorized personnel.
  - (b) All ground-mounted electrical and control equipment must be labeled and secure to prevent unauthorized access. An owner shall ensure that all wind turbine access doors and electrical equipment are locked when authorized personnel are not present.
  - (c) An owner shall place appropriate warning signage on or at the base of each wind turbine.
  - (d) An owner shall post and maintain up-to-date signs containing a twenty-four (24) hour emergency contact telephone number, information identifying the owner, and sufficient

information to identify the location of the sign within the wind energy system. An owner shall post these signs at every intersection of a wind energy system access road with a public road and at each wind turbine location.

- (e) An owner shall clearly mark guy wires and supports for a wind energy system, meteorological tower or other device for measuring wind speeds so that the wires and supports are visible to low flying aircraft under fair weather conditions.
- (f) An owner shall construct, operate, repair, maintain and replace wind energy system facilities as needed to keep the wind energy system in good repair and operating condition in a manner that protects individuals from injury.

(13) **LIGHTING.**

An owner shall use shielding or control systems approved by the federal aviation administration to reduce visibility of light to individuals on the ground.

(14) **MONETARY COMPENSATION FOR NON-PARTICIPATING RESIDENCES.**

- (a) An owner shall offer an agreement to the owner of a non-participating residence, if the residence is located within one-half (½) mile of a constructed wind turbine, that includes the following initial annual monetary compensation of Six Hundred (\$600.00) Dollars for one (1) turbine located within one-half (½) mile of a non-participating residence, Eight Hundred (\$800.00) Dollars for two (2) turbines located within one-half (½) mile of a non-participating residence, and One Thousand (\$1,000.00) Dollars for three (3) or more turbines located within one-half (½) mile of a non-participating residence.
- (b) The initial annual monetary compensation under this subsection shall apply to agreements entered into in 2014. For agreements entered into in 2015 and thereafter, the initial annual amounts shall increase each year by the greater of two (2%) percent or the increase in the Consumer Price Index, as described in §196.374(5)(bm)2, Wis. Stats., from the previous year.
- (c) An agreement offered under this subsection shall specify in writing any waiver of a requirement or right under this Ordinance or Wis. Admin. Code §PSC 128 and whether the landowner's acceptance of payment establishes the landowner's property as a participating property under this Ordinance or Wis. Admin. Code §PSC 128.

(15) **NOISE.**

If an owner receives a complaint of a violation of the noise standards contained in Wis. Admin. Code §PSC 128.14 and the owner has not provided the Department with the results of an accurate test conducted within two (2) years of the date of the complaint showing that the wind energy system is in compliance with the noise standard at the location relating to the complaint, the owner shall promptly conduct a noise study to evaluate compliance with the noise standards at that location using the most current version of the noise measurement protocol as described in Wis. Admin. Code §PSC 128.50(2)

(16) **OWNERSHIP CHANGE.**

- (a) An owner shall provide the Village with notice of any change in ownership of the wind energy system on or before the effective date of the change.
- (b) A notice of change in ownership of the wind energy system shall include information showing that the financial responsibility requirements specified in Section ZN 3.13(10) will be met following the change in ownership.

(17) **SIGNAL INTERFERENCE.**

- (a) An owner shall use reasonable efforts to avoid causing interference with commercial and personal communications in use when the wind energy system begins operation to the extent practicable.
- (b) An owner shall use reasonable and commercially available technology to mitigate interference with personal communications that were in use when the wind energy system began commercial operations. An owner shall also use reasonable and commercially available technology to mitigate interference with personal communications that were not in use when the wind energy system began commercial operations, if the wind energy system is causing the interference and the interference occurs at a location at least one-half mile from a wind turbine.
- (c) An owner shall use reasonable and commercially available technology to mitigate interference caused by a wind energy system with commercial communications in use when a wind energy system begins operation.
- (d) Before implementing mitigation measures, the owner shall consult with the affected parties regarding the preferred mitigation solution for personal and commercial communications interference problems. Except as provided in sub. (e), an owner shall mitigate personal communications interference caused by the wind energy system by making the affected party's preferred reasonable mitigation solution effective until either the wind energy system is decommissioned or the communication is no longer in use, whichever is earlier.
- (e) An owner shall, under a protocol established by Wis. Admin. Code §PSC 128.50(2), implement a new technology solution that becomes commercially available before the wind energy system is decommissioned to address interference for which mitigation is required under Wis. Admin. Code §PSC 128.16(2) and (3) and for which the original mitigation solution is only partially effective.

(18) **EMERGENCY COMMUNICATIONS CORRIDORS.**

- (a) Wind energy system facilities shall not be located within an emergency communication corridor, which is defined as the area within an existing line-of-sight communication path that is used by a government or military entity to provide services essential to protect public safety.
- (b) The Village of Somers will provide the locations of emergency communication services and line-of-site corridors that are essential to protect public safety.

(19) **SOIL AND DRAINAGE SYSTEM PROTECTION.**

- (a) An owner shall utilize all applicable best practices in the placement, construction, operation, and maintenance of its wind energy facilities in order to minimize soil compaction, protect the topsoil, prevent topsoil mixing, and avoid and repair any damage to drainage systems on agricultural land.
- (b) An owner shall describe the applicable best practices that it intends to use in the placement, construction, operation, and maintenance of its wind energy facilities in its application.

(20) **STUDIES.**

An owner shall cooperate with any study of the effects of wind energy systems that is coordinated by a state agency.

(21) **COSTS AND FEES.**

- (a) An applicant shall pay an application fee to the Village at the time that it files its application. The fee will be applied to the cost of reviewing the application.
- (b) An applicant is responsible for paying all costs incurred by the Village in connection with the review and processing of the application, including the cost for services provided by outside attorneys, engineers, environmental specialists, planners, and other consultants and experts.
- (c) An owner is responsible for paying all costs incurred by the Village in connection with monitoring compliance during construction and assessing when wind energy facilities are not maintained in good repair and operation condition.
- (d) The Village shall invoice the applicant or owner for the actual and necessary costs incurred pursuant to this Ordinance. The applicant or owner shall reimburse the Village for those costs within fifteen (15) days of the date of invoice.

(22) **CONSULTANTS.**

- (a) The Department is authorized to contract with one (1) or more engineers, environmental specialists, planners, and other consultants and experts to perform necessary services in connection with this Ordinance.
- (b) The corporation counsel is authorized to contract with outside attorneys to perform necessary services in connection with this Ordinance.

(23) **COMPLETENESS REVIEW.**

- (a) An application is complete if it complies with the filing requirements of this Ordinance and of Wis. Admin. Code §PSC 128.30(2) and 128.50(1).
- (b) An application is considered filed the day the owner notifies the Department in writing that all the application materials have been filed.



- (c) The Department shall determine the completeness of an application and shall notify the owner in writing of the completeness determination no later than forty-five (45) days after the day the application is filed.
- (d) If the Department determines that the application is incomplete, it shall provide the owner with written notice stating the reasons for the determination. The owner shall provide additional information specified in the notice, and an additional forty-five (45) day completeness review period will begin the day after the Department receives responses to all items identified in the notice.
- (e) If the owner fails to provide additional information specified in the notice of an incomplete application within ninety (90) days, the application will be deemed abandoned. The owner may re-file the application at a later date, subject to payment of a new application fee. There is no limit to the number of times that an owner may re-file an application.
- (f) If the Village does not make a completeness determination within the applicable review period, the application is considered to be complete.

(24) **REQUESTS FOR ADDITIONAL INFORMATION.**

- (a) The Department may request additional information necessary to understand the wind energy system after determining that an application is complete.
- (b) An owner shall provide additional information in response to all reasonable requests.
- (c) An owner shall respond to all inquiries made subsequent to a determination of completeness in a timely, complete, and accurate manner.
- (d) If the owner fails to provide additional information requested within ninety (90) days, the application will be deemed abandoned. The owner may re-file the application at a later date, subject to the payment of a new application fee. There is no limit to the number of times that an owner may re-file an application.

(25) **APPROVAL REVIEW.**

- (a) The Department shall have ninety (90) days from the date that it notifies the owner that the application is complete in which to approve or disapprove the application.
- (b) The review period may be extended upon written notice to the applicant for one (1) or more of the following reasons; but the total time for all extensions may not exceed ninety (90) days:
  - 1 Up to forty-five (45) days if additional information is needed.
  - 2 Up to ninety (90) days if the applicant makes a material modification to the application.
  - 3 Up to ninety (90) days for other good cause specified in writing.

- (c) If the Department fails to act within the ninety (90) days, or within any extended time period, the application will be considered approved.
- (d) The Plan Commission shall hold one public hearing during the initial ninety (90) day application review period for the purpose of receiving public comments on the application. A hearing notice will be published and the hearing will normally be held at the first commission meeting following notice to the applicant that the application is complete.
- (e) Written comments will be accepted for ten (10) days following the close of the hearing.

(26) **WRITTEN DECISION.**

- (a) The Department shall issue a written decision to grant or deny an application for a wind energy system. The written decision must include findings of fact supported by evidence in the record. If an application is denied, the decision must specify the reason for the denial.
- (b) The Department shall provide a duplicate original of its written decision to the owner and the commission.
- (c) The owner shall record the duplicate original of a decision approving an application with the Register of Deeds.

(27) **MODIFICATIONS.**

- (a) An owner shall comply with Wis. Admin. Code §PSC 128.35 before making any material change to a wind energy system.
- (b) The Department will conduct a review of any application for a material change in a wind energy system as provided for in Wis. Admin. Code §PSC 128.35(2).

(28) **THIRD-PARTY CONSTRUCTION INSPECTOR.**

The Department may contract with a third-party inspector to monitor and report to the Department regarding the owner's compliance with permit requirements during construction as provided for in Wis. Admin. Code §PSC 128.36(2). The owner shall reimburse the Village for the actual and necessary cost of the inspector.

(29) **POST-CONSTRUCTION FILING REQUIREMENT.**

Within ninety (90) days of the date a wind energy system commences operation, the owner shall file with the Department and the commission an as-built description of the wind energy system and all other information described in Wis. Admin. Code §PSC 128.34(3).

(30) **COMPLIANCE MONITORING.**

- (a) An owner shall maintain a maintenance log for each wind turbine. The log must contain the following information regarding any maintenance performed on the wind turbine:

- 1 date and time maintenance was performed.
  - 2 nature of the maintenance performed.
  - 3 reason for the maintenance.
- (b) An owner shall, at the owner's expense, provide the Department with a copy of the maintenance log for each wind turbine for each month within five (5) calendar days after the end of the month.
- (c) The Department may retain such consultants or experts as it deems necessary to assess and determine whether the wind energy system facilities are compliant or to assess whether the wind energy system facilities are being maintained in good repair and operating condition.
- (31) **ABANDONMENT AND DECOMMISSIONING.**
- (a) A large wind energy system that does not generate electricity for a continuous period of three hundred sixty (360) days will be deemed abandoned and the Department may issue a Notice of Abandonment to the owner.
- (b) If within thirty (30) days of receipt of Notice of Abandonment, the owner provides the Department with information showing that the large wind system has not been abandoned, the Department will withdraw the notice.
- (c) Unless the Department withdraws the Notice of Abandonment, the large wind energy system must be decommissioned as prescribed by Wis. Admin. Code §PSC 128.19. If the owner fails to remove the large wind system and reclaim the site, the Village may remove or cause the removal of the large wind energy system and arrange for reclamation of the site. The cost of removal and reclamation will become a lien upon the property and may be collected in the same manner as property taxes.
- (32) **DECOMMISSIONING REVIEW.**
- (a) An owner shall file a notice of decommissioning completion with the Village and any political subdivision within which its wind energy systems facilities are located when a wind energy system approved by the Village has been decommissioned and removed.
- (b) The Department shall conduct a decommissioning review to determine whether the owner has decommissioned and removed the wind energy system as required by Wis. Admin. Code §PSC 128.19(1)(a) and whether the owner has complied with its site restoration obligation under Wis. Admin. Code §PSC 128.19(4).
- (c) The owner shall cooperate with the Village by participating in the decommissioning review process.
- (33) **APPEALS.**

- (a) A decision by the Department that the application is incomplete, to approve or disapprove the application, or to impose a restriction on a wind energy system may be appealed in accordance with the procedures set forth in Section ZN 7.01(1) to Section ZN 7.01(11) or by appealing to the commission.
- (b) Any action by the Village to enforce a restriction on a wind energy system may be appealed to the commission.
- (c) An appeal must be filed with the commission within thirty (30) days after the date of the decision or the start of the enforcement action that is being appealed.

**(34) COMPLAINT NOTICE REQUIREMENTS.**

- (a) An owner shall comply with the notice requirements contained in Wis. Admin. Code §PSC 128.42(1) and (2).
- (b) An owner shall, before construction of a wind energy system begins, provide the Department with a copy of the notice issued pursuant to Wis. Admin. Code §PSC 128.42(1), along with a list showing the name and address of each person to whom the notice was sent and a list showing the name and address of each political subdivision to which the notice was sent.
- (c) An owner shall, before construction of a wind energy system begins, file with the Department the name and telephone number of the owner's contact person for receipt of complaints or concerns during construction, operation, maintenance, and decommissioning. The owner shall keep the name and telephone number of the contact person on file with the Department current.

**(35) COMPLAINT MONITORING.**

- (a) An owner shall maintain a complaint log as required by Wis. Admin. Code §PSC 128.40(2)(d).
- (b) An owner shall, at the owner's expense, provide the Department with a copy of the complaint log for each month within five (5) calendar days after the end of the month.
- (c) An owner shall, before construction of a wind energy system begins, provide the Department with a written copy of the owner's complaint resolution process. An owner shall provide the Department with a written copy of any changes to the complaint resolution process at least thirty (30) days prior to implementing the change.

**(36) COMPLAINT PROCESS.**

- (a) An aggrieved person who has made a complaint to an owner in accordance with Wis. Admin. Code §PSC 128.40 may petition the Village for review of the complaint if it has not been resolved within forty-five (45) days of the day the owner received the original complaint.

- (b) The petition for review must be filed with the Department within ninety (90) days of the date of the original complaint.
- (c) The petition must include the following:
  - 1 name, address, and telephone number of the person filing the petition.
  - 2 copy of the original complaint to the owner.
  - 3 copy of the owner's initial response.
  - 4 statement describing the unresolved complaint.
  - 5 statement describing the desired remedy.
  - 6 any other information the complainant deems relevant to the complaint.
  - 7 notarized signature of the person filing the petition.
- (d) The Department shall forward a copy of the petition to the owner by certified mail within ten (10) days of the Department's receipt of the petition.
- (e) The owner shall file an answer to the petition with the Department and provide a copy of its answer to the complainant within thirty (30) days of its receipt of the petition.
- (f) The answer must include the following:
  - 1 name, address, and telephone number of the person filing the answer.
  - 2 statement describing the actions taken by the owner in response to the complaint.
  - 3 statement of the reasons why the owner believes that the complaint has been resolved or why the complaint remains unresolved.
  - 4 statement describing any additional action the owner plans or is willing to take to resolve the complaint.
  - 5 any other information the owner deems relevant to the complaint.
  - 6 notarized signature of the person filing the answer.
- (g) The complainant and the owner may, within thirty (30) days following the owner's filing of its answer, file such additional information with the Department as each deems appropriate.
- (h) The Department may request such additional information from the complainant and the owner as it deems necessary to complete its review.

- (i) The Department may retain such consultants or experts as it deems necessary to complete its review.
- (j) The Department shall issue a written decision and may take such enforcement action as it deems appropriate with respect to the complaint.
- (k) The Department's decision and enforcement action is subject to review under §66.0401(5), Wis. Stats.

### **ZN 3.14 ACCESSORY BUILDING REGULATIONS.**

**(1) PERMIT REQUIRED.**

No accessory building shall hereinafter be located, directed, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit and without being in conformity with the provisions of this Ordinance, and State Statutes and the Wisconsin Administrative Code. The accessory building shall also meet all the structural requirements of local and State codes.

**(2) DISTRICTS.**

Accessory buildings may be located in all districts except the C-1 Lowland Resource Conservancy District and FPO Floodplain Overlay District.

**(3) APPLICATION.**

All drawings and plans for the construction, installation, enlargement or alteration of any such accessory building shall first be presented to the Village for examination and approval as to proper size, location and construction.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all lot lines, and all information pertaining to the accessory building. Such plans shall also include vertical elevations of the accessory building.

**(4) CLASSIFICATION.**

Agricultural buildings, on lots of at least ten (10) acres, such as barns, silos, bins, sheds, and farm machinery sheds in the A-1, A-2, A-3 and A-4 agricultural districts shall not be considered accessory buildings. Such buildings are principal agricultural buildings and shall comply with the yard and height requirement of the agricultural districts.

Buildings on non-conforming lots in the A-1, A-2, A-3, or A-4 districts less than ten (10) acres shall be considered accessory buildings and shall comply with the provisions of this section.

**(5) LOCATION.**

Accessory buildings shall be detached from the principal structure, provided that the accessory building:

- (a) Is on the same lot and then permitted only after their principal structure is present or under construction.

(b) Shall be located in the side or rear yard only.

(6) **SIZE.**

Accessory building size is based upon lot size according to table in Section ZN 3.14(12).

(7) **SETBACKS.**

Accessory buildings shall have the following setbacks. (see table in Section ZN 3.14(12)).

- (a) A building separation of at least ten (10) feet between all buildings and structures.
- (b) A minimum five (5) foot side and rear yard setback on lots equal to or less than thirty-nine thousand nine hundred ninety-nine (39,999) square feet, unless zoned R-9, R-10 or R-11 in which case the setback shall be ten (10) feet.
- (c) A minimum ten (10) foot side and rear yard setback on lots equal to or greater than forty thousand (40,000) square feet.
- (d) Detached accessory buildings in all other districts shall meet the minimum setback requirements as outlined in each district.

(8) **HEIGHT.**

Accessory buildings shall have the following height. (see table in Section ZN 3.14(12))

- (a) A maximum height of fifteen (15) feet for buildings (shed, gazebos, pool house) equal to or less than one hundred fifty (150) square feet.
- (b) A maximum height of seventeen (17) feet for buildings greater than one hundred fifty (150) square feet and equal to or less than seven hundred twenty (720) square feet
- (c) A maximum height of twenty (20) feet for buildings greater than seven hundred twenty (720) square feet.
- (d) A maximum height of twenty-four (24) feet for buildings greater than three thousand (3,000) square feet.

(9) **NUMBER OF BUILDINGS.**

The number of accessory buildings permitted per lot are as follows: (see table in Section ZN 3.14(12)).

- (a) One (1) of each: shed, gazebo, pool house equal to or less than one hundred fifty (150) square feet.
- (b) One (1) accessory building, greater than one hundred fifty (150) square feet, on lots equal to or less than seventy-nine thousand nine hundred ninety-nine (79,999) square feet.
- (c) Two (2) accessory buildings, greater than one hundred fifty (150) square feet, on lots equal to or greater than eighty thousand (80,000) square feet.

- (d) If the total number of detached accessory buildings existing on a parcel exceeds the total number permitted in the district, no additional buildings or additions to existing buildings shall be permitted unless buildings in excess of the district standard are removed.

(10) **OPEN SIDED/SCREENED STRUCTURES (BUILDINGS) SUCH AS GAZEBOS AND SCREEN HOUSES.**

Open sided and/or screened structures (buildings) such as gazebos, and screen houses are permitted in the shoreyard setback area provided that the following is satisfied in accordance with §59.692(1v), Wis. Stats.

- (a) The part of the structure (building) that is nearest to the water is located at least thirty-five (35) feet landward from the ordinary high water mark.
- (b) The floor area of all structures (buildings) in the shoreland setback area shall not exceed two hundred (200) square feet.
- (c) The structure (building) has no sides or has open or screened sides.
- (d) The structure (building) shall not exceed ten (10) feet in height.
- (e) Submittal of a plan, approved by the Village, that will be implemented by the owner of the property to preserve or establish a vegetative shoreland buffer area that covers at least seventy (70%) percent of the width at least thirty-seven and one-half (37.5) feet landward from the ordinary high water mark.
- (f) Shoreland buffer area shall be established and maintained with applicable shoreland cutting provisions of Section ZN 3.10(2).

(11) **BOATHOUSES.**

- (a) Boathouses, accessory to permitted uses, may be located within a shore yard and entirely within the access and viewing corridor, but shall not be closer to a lake, stream, pond, or wetland than the ordinary high water mark. A boathouse is a non-habitable structure and shall be designed and used exclusively for marine equipment and shall meet the following requirements:

- 1 used by the owner or occupant of the parcel;
- 2 one (1) boathouse per shoreland lot;
- 3 not to be closer than three (3) feet to any side lot line; and the boathouse shall be constructed in such manner as to orient the main opening of the boathouse toward the lake;
- 4 not exceed four hundred and fifty (450) square feet measured outside wall to outside wall;
- 5 not to exceed one story, with a minimum wall height of ten (10) feet;



- 6 maximum height of twelve (12) feet above the existing shoreline grade except when bluff and/or steep slope conditions exist, (in such cases, it shall not exceed the height of the top grade elevation of said shoreland lot);
  - 7 maximum width parallel to the shore of fifteen (15) feet;
  - 8 not to contain fireplaces, patio doors, plumbing, heating, air conditioning, cooking facilities or other features inconsistent with the use of the structure exclusively as a boathouse;
  - 9 no attached or detached decks or patios;
  - 10 maximum of ten (10) square feet of window surface may be allowed on each side;
  - 11 no more than one service door not to exceed thirty-six (36) inches in width. The service door shall not be on the water body side of the structure;
  - 12 no more than one garage style access door not exceeding ten (10) feet in width and no less than eight (8) feet in width. The garage style door shall be on the water body side of the structure.
- (b) The roof of a boathouse may be used as a deck provided that:
- 1 The boathouse has a flat roof.
  - 2 The roof has no side walls or screens.
  - 3 The roof may have a railing that meets the Department of Safety and Professional Services standards.
- (12) **SUMMARY OF REGULATIONS FOR DETACHED ACCESSORY BUILDINGS.**

Lot Size	Maximum Number of Buildings	Maximum Size (Square Feet)	Maximum Height (Feet)	Yard Location	Side/rear Setback
<15,000 sf	1	150	12	Side or Rear	5 Feet
	1	720	17	Side or Rear	5 Feet
15,000-19,999 sf	1	150	12	"	"
	1	1000	20	"	"
20,000-39,999 sf	1	150	12	"	"
	1	1,500	20	"	"
40,000-79,999 sf	1	150	12	"	10 Feet
	1	2,000	20	"	10 Feet
80,000-119,999 sf	1	150	12	"	
	2	2,500	20	"	
120,000-159,999 sf	1	150	12	"	"
	2	3,000	24	"	"
160,000-4.9 ac	1	150	12	"	"
	2	3,500	24	"	"
5-5.9 ac	1	150	12	"	"
	2	4,000	24	"	"
6-6.9 ac	1	150	12	"	"
	2	4,500	24	"	"
7-7.9 ac	1	150	12	"	"
	2	5,000	24	"	"
8-8.9 ac	1	150	12	"	"
	2	5,500	24	"	"
9-9.9 ac	1	150	12	"	"
	2	6,000	24	"	"
>10 ac	No Limit	No Limit	24	Side, Rear, Street	25 Feet/ 50 Feet
R-9	No Limit	No Limit	20	Side or Rear	"
R-10	No Limit	No Limit	20	Side or Rear	"
R-11	No Limit	No Limit	20	Side or Rear	"
R-12	1	150	12	Side or Rear	5 Feet
	1	720	17	Side or Rear	5 Feet

### **ZN 3.15 DECKS & PATIOS.**

**(1) COMPLIANCE.**

It shall be unlawful to construct, install, enlarge, or alter any deck or patio as defined in this Ordinance, except in compliance with the provisions of this Ordinance, and State Statutes and the Wisconsin Administrative Code.

**(2) DISTRICTS.**

Decks may be located in all districts except the C-1 Lowland Resource Conservancy District and FPO Floodplain Overlay District.

Patios may be located in all districts except in the C-1 Lowland Resource Conservancy District.

**(3) PERMIT REQUIRED.**

All decks and only patios within the shoreyard setback, shall not be located, directed, moved, reconstructed, extended, enlarged, converted or structurally altered without a zoning permit from the Village and without being in conformity with the provisions of this Ordinance, and State Statutes and the Wisconsin Administrative Code.

**(4) APPLICATION.**

All drawings and plans for the construction, installation, enlargement or alteration of any such deck and/or patio shall first be presented to the Village for examination and approval as to proper size, location and construction.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all lot lines, and all information pertaining to the deck and/or patio. In the case of a deck, such plans shall also include vertical elevations of the accessory building.

**(5) SETBACK – DECK.**

A deck is permitted in any yard subject to the following:

- (a) Street Yard – as required by the district.
- (b) Side Yard – ten (10) feet into any required setback, but not less than five (5) feet.
- (c) Rear Yard – ten (10) feet into any required setback, but not less than fifteen (15) feet.
- (d) Shore Yard – permitted in the required setback, in accordance with §59.692(1v), Wis. Stats., and subject to the following:
  - 1 Not less than thirty-five (35) feet from the ordinary high water mark
  - 2 Not greater than two hundred (200) square feet in area, inclusive of patios, gazebos and screen houses within this setback.
  - 3 Submittal of a plan, approved by the Village, that will be implemented by the owner of the property to preserve or establish a vegetative shoreland buffer area that covers at least seventy (70%) percent of the width at least thirty-seven and one-half (37.5) feet landward from the ordinary high water mark. The shoreland buffer area shall be established and maintained with applicable shoreland cutting provisions of Section ZN 3.10(2).

**(6) SETBACK – PATIO.**

A patio is permitted in any yard subject to the following:

- (a) Street Yard – as required by the district.

- (b) Side Yard – five (5 )feet.
- (c) Rear Yard – five (5 )feet.
- (d) Shore Yard – permitted in the required setback, in accordance with §59.692(1v), Wis. Stats., and subject to the following:
  - 1 Not less than thirty-five (35) feet from the ordinary high water mark
  - 2 Not greater than two hundred (200) square feet in area, inclusive of patios, gazebos and screen houses within this setback.
  - 3 Submittal of a plan, approved by the Village, that will be implemented by the owner of the property to preserve or establish a vegetative shoreland buffer area that covers at least seventy (70%) percent of the width at least thirty-seven and one-half (37.5) feet landward from the ordinary high water mark. The shoreland buffer area shall be established and maintained with applicable shoreland cutting provisions of Section ZN 3.10(2).

### **ZN 3.16 ACCESSORY LIVING UNIT.**

(1) **PERMIT REQUIRED.**

It shall be unlawful to proceed with the construction, installation, enlargement or alteration of an Accessory Living Unit, as defined in this Ordinance, without a zoning permit from the Village and without being in conformity with the provisions of this Ordinance, State Statutes and the Wisconsin Administrative Code.

(2) **DISTRICTS.**

Accessory Living Units may be located in the A-1, A-2, C-2, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6 Districts.

(3) **APPLICATION.**

All drawings and plans for the construction, installation, enlargement or alteration of any such Accessory Living Unit shall first be presented to the Village for examination.

All such plans and drawings shall be drawn to scale and shall indicate thereon all distances and dimensions so as to accurately and explicitly show all floor plans, lot lines and all information pertaining to the Accessory Living Unit.

(4) **REQUIREMENTS.**

The following rules apply to an Accessory Living Unit.

- (a) Only one (1) Accessory Living Unit is permitted per single-family dwelling.
- (b) The Accessory Living Unit shall not exceed six hundred (600) square feet in area.

- (c) No more than two (2) people may reside in the Accessory Living Unit.
- (d) The entire structure must appear or continue to appear as a single-family dwelling. A separate garage or driveway is not permitted.
- (e) No separate address is permitted.
- (f) No separate utility connections and/or meters are permitted.
- (g) A physical access between the main living unit and the accessory living unit must be present within the single-family dwelling unit. The required connection may not be through an attic, basement, garage, porch or other non-living area. A door may be used to separate the accessory living unit from the rest of the single-family dwelling unit.
- (h) In addition to the internal physical connection required above, only one separate outdoor side or rear access, being a patio door, may be provided; however, the structure shall continue to appear as a typical single-family dwelling.
- (i) An external stairway which serves the Accessory Living Unit is prohibited.
- (j) The Accessory Living Unit may contain a separate bathroom, laundry, living, efficiency kitchen, sleeping (one bedroom) and recreation areas, including exterior porches, patios, and/or decks.
- (k) The Accessory Living Unit shall be occupied by a resident related through blood, marriage or adoption to the resident occupant of the single-family dwelling.
- (l) An Accessory Living Unit should be considered and regulated as part of, or as a permitted addition to, a single-family dwelling. It shall not require conditional use approval or special site plan review.
- (m) When an application is submitted for a zoning permit to accommodate what is explicitly listed as, or could possibly be, an Accessory Living Unit, the building plan shall be marked as "Not a separate dwelling unit nor apartment."
- (n) A standardized affidavit affecting real estate shall be attached to the zoning permit and recorded in the Register of Deeds.

### **ZN 3.17 TEMPORARY USES.**

#### **(1) PURPOSE.**

As permitted in Section ZN 3.02(1)(e) of this Ordinance, the temporary use regulations of this section are intended to allow such occasional, temporary uses and activities when consistent with the overall purposes of this zoning ordinance and the uses allowed in a particular zoning district, and when the operation of the temporary use will not be detrimental to the public health, safety or general welfare.

The nature, character or circumstances of temporary uses are unique and dependent upon specific conditions. Therefore, specifying all temporary uses and associated standards, regulations or conditions necessary or appropriate for a temporary use permit to be granted is not practical.

**(2) TEMPORARY USES NOT REQUIRING A ZONING PERMIT.**

Although it is recognized that it is neither possible nor practical to list all of the temporary uses not needing a zoning permit, the following are allowed subject to the listed conditions:

- (a) Handicap Ramp. A temporary handicap ramp is allowed to be constructed to provide access to a residential dwelling that does not meet the setback requirements of this Ordinance.
  - 1 The temporary handicap ramp shall be used solely for the purpose of handicapped accessibility to the residential dwelling. Any additional uses other than handicapped accessibility are prohibited (i.e. recreational decks defined as any landing area larger than four (4) feet by six (6) feet).
  - 2 The temporary handicap ramp shall be designed to have the least deviation of applicable setbacks.
  - 3 The property owner is responsible for removing the temporary handicapped ramp when it is no longer required by the occupants of the dwelling
  - 4 Additional conditions may be imposed to ensure compliance with the provisions of this Ordinance and all local, state and federal requirements.
- (b) On-site Construction Trailers.
  - 1 Construction trailer(s) shall be located on the same property in which the construction project it services is taking place.
  - 2 The site on which the construction trailer(s) is proposed to be located shall have an active zoning, erosion control or stormwater permit issued by the Department of Planning and Development.
  - 3 Construction trailer(s) shall be located in an area which is accessible for emergency vehicles.
  - 4 Construction trailer(s) shall comply with all local, State and Federal requirements.
  - 5 Construction trailer(s) shall be removed from the property prior to the issuance of a Certificate of Compliance for which the building or related site improvements have occurred. Where a project does not require the issuance of a Certificate of Compliance, construction trailer(s) shall be removed from the property prior to the expiration of the permit relative to the project.

(c) Temporary Portable Storage Containers. A temporary portable storage container (such as, but not limited to, those available from PODS or U-Haul) is a purpose-built, fully enclosed, box-like container to provide residential property owners temporary storage space for home remodeling, relocating, fire and/or water damage; and cleaning out attics, basements, garages or other attached storage areas. A temporary portable storage container is not a storage shed, roll-off container, dumpster, cargo/shipping container or the trailer portion of a tractor-trailer.

- 1 Temporary portable storage containers shall only be permitted on lots with a principal building or structure.
- 2 Temporary portable storage containers shall not be used in conjunction with a home occupation or used as a principal use or principal building or structure.
- 3 All temporary portable storage containers shall display the container provider's contact information. Signs shall not contain other advertising for any other product or services.
- 4 Temporary portable storage containers shall not be inhabited.
- 5 Containers may not be placed in any road right-of-way, vision triangle, sidewalk, and landscape or drainage easement.
- 6 Due to the temporary nature of temporary portable storage containers, location in a driveway or yard may be acceptable.
- 7 Temporary portable storage containers shall be permitted on a lot for a period not to exceed thirty (30) consecutive days within a six (6) month period. For extensive construction projects a written extension may be granted by Planning & Development.
- 8 Maximum cumulative size of all temporary portable storage containers on a property may not exceed one hundred thirty (130) square feet.
- 9 Portable storage containers may not exceed a height of eight and one-half (8½) feet. The height of such structures is measured from the lowest ground level adjacent to the structure to the top of the structure. Stacking of containers is prohibited.

(d) Yard Sales.

- 1 Not to exceed four (4) days in duration.
- 2 No more than one (1) yard sale in any two (2) month period.

**(3) TEMPORARY USES REQUIRING A ZONING PERMIT.**

It shall be unlawful to proceed with the construction, installation, enlargement or alteration of a temporary use, as defined in this Ordinance, without a zoning permit from the Department of Planning & Development and without being in conformity with the provisions of this Ordinance and local, State and Federal requirements. Although it is recognized that it is neither possible nor practical to list all the

temporary uses for which a zoning permit is required, the following are allowed subject to the listed conditions:

- (a) Two (2) single-family dwellings on one (1) property. A new single-family dwelling is allowed to be constructed on an existing lot with an existing single-family dwelling.
  - 1 The underlying zoning district allows for a single-family dwelling.
  - 2 The existing single-family dwelling is razed no later than a mutually agreed date determined by the Village and the applicant. Such action may require a raze permit from the Village.
  - 3 The occupant(s) of the existing dwelling is (are) allowed to live in the existing dwelling while the new single-family dwelling is being constructed on the property.
  - 4 Only one (1) dwelling shall be occupied at a time.
  - 5 The new single-family dwelling shall comply with all setback requirements of the underlying zoning district and shall be located a minimum of ten (10) feet from the existing dwelling.
  - 6 A standardized affidavit affecting real estate, referencing the mutually agreed date the second single-family dwelling is to be razed, shall be attached to the zoning permit and recorded in the register of deeds.
- (b) Temporary residence during reconstruction of a single-family dwelling due to natural disaster in only the A-1 and A-2 zoning districts. A manufactured home may be used as a temporary dwelling while the existing single-family dwelling is being reconstructed due to a natural disaster.
  - 1 Such use shall only be permitted in the A-1 or A-2 zoning district and then only when there is proven need to provide twenty-four (24) hour presence on the property for the raising of livestock or horses.
  - 2 Such use shall be granted for six (6) months unless approved for an additional six (6) months.
  - 3 The manufactured home shall be removed from the property within thirty (30) days of obtaining an occupancy permit from the Village or by the expiration date of the zoning permit for the single-family residence to be reconstructed, whichever comes first.
  - 4 Only the occupant(s) of the existing single-family dwelling are allowed to live in the manufactured home while the single-family dwelling is being reconstructed on the property.
  - 5 Only one (1) dwelling shall be occupied at a time.



- 6 The manufactured home shall comply with all setback requirements of the underlying zoning district and shall be located a minimum of ten (10) feet from the existing dwelling.
- 7 All sanitary codes shall be complied with.
- 8 A standardized affidavit affecting real estate shall be attached to the zoning permit and recorded in the register of deeds.

(4) **TEMPORARY USES REQUIRING APPROVAL BY THE BOARD OF APPEALS.**

It shall be unlawful to proceed with the operation, construction, installation, enlargement or alteration of a temporary use, as defined in this Ordinance, without first obtaining approval from the Village Board of Appeals and also obtaining any applicable zoning permit or certificate of compliance from the Village being in conformity with the provisions of this Ordinance, and local, State and Federal requirements. Although it is recognized that it is neither possible nor practical to list all the temporary uses for which Board of Appeals approval is needed, the following are allowed subject to Board of Appeals approval:

- (a) Circus, Concerts and Festival events less than five thousand (5,000) people
- (b) Christmas Tree sales
- (c) Classrooms
- (d) Fireworks Stands
- (e) Food Stands
- (f) Fruit and Vegetable Stands
- (g) Horse Shows and Rodeos
- (h) Model Home Sales Office
- (i) Real Estate Sales Offices
- (j) Recreational Vehicle Races and Events
- (k) Sales Office
- (l) Vacant Lot Tent Sales

## **ZN 3.18 LIGHTING.**

### **(1) EXTERIOR LIGHTING STANDARDS**

The requirements of this section apply to all private exterior lighting within the business, manufacturing, institutional and park-recreational districts, except as may be modified by a Development Agreement entered into by a property owner and the Village, in which case the provisions of the Development Agreement shall control.

- (a) **Orientation of Fixtures.** Except for security lighting, outdoor recreational facility lighting or flag lighting, in no instance shall an exterior lighting fixture be oriented so that the lighting element (or a transparent shield) is visible from any abutting right-of-way or adjacent property. The use of fully shielded fixtures (as defined in the Wisconsin Model Exterior Lighting Ordinance) is required and careful fixture placement and maintenance is encouraged so as to facilitate compliance with this requirement.
  - 1 **Building Lighting.** Ground-mounted light fixtures for building lighting shall be carefully located, aimed and shielded so that light is directed only onto the building facade.
  - 2 **Service Station Canopy Lighting.** Light fixtures mounted on the bottom surface of service station canopies shall be recessed so that the lens cover is flush with the bottom surface (ceiling) of the canopy.
  - 3 **Wall Lighting.** Wall-mounted light fixtures shall be aimed and shielded so that illumination is directed below a horizontal plane through the top of the lighting fixture.
- (b) **Intensity of Illumination.** In no instance shall the amount of illumination attributable to exterior lighting as measured at the property line exceed one-half (0.5) footcandles above ambient lighting conditions on a cloudless night. This will be verified by a photometric plan of the property.
- (c) **Minimum Parking Lot Lighting.** All areas designated on required site plans for vehicular parking, loading or circulation and used for any such purpose shall provide artificial illumination in those areas at a minimum average intensity of two (2) footcandles.
- (d) **Height.** Light fixtures shall not be more than twenty-five (25) feet above ground level for parking lots serving twenty (20) or fewer parking spaces, nor more than thirty (30) feet above ground level for parking lots with more than twenty (20) spaces.
- (e) **Flashing, Flickering and Other Distractive Lighting.** Flashing, flickering and/or other lighting which may distract motorists is prohibited.
- (f) **Non-conforming Lighting.** All lighting fixtures existing prior to the effective date of this Section and that do not comply with the provisions of this Section shall be considered as legal non-conforming uses. The replacement of non-conforming fixtures after the effective date of this Section shall be done so with fixtures which fully comply with the provisions of this Section.

- (g) Exemptions. Lighting placed in a public right-of-way for public safety shall be exempt from the provisions of this Section.
- (h) Special Uses. Lighting for outdoor recreational facilities such as athletic fields, courts, tracks, golf courses and driving ranges, shooting ranges, swimming pools, ski hills or amusement parks and fairgrounds may be exempt from the provisions of this Section, but shall meet accepted minimum design standards for the intended use. Lighting plans for outdoor recreational facilities shall be subject to review and approval by the Village.

### **ZN 3.19 LANDSCAPING.**

**(1) PURPOSE.**

The purpose of this subchapter is to indicate the minimum requirements for the landscaping of new development and redevelopment of any multi-family residential, business, manufacturing, and institutional district except for development requiring the platting process, in which case the landscaping plan shall be included with the submittal of all preliminary plats to be approved during the platting process by the Village.

**(2) LANDSCAPE PLAN REQUIRED.**

A landscape plan shall be prepared by a registered Landscape Architect for all new development or redevelopment. The landscape plan shall provide for and address landscaping for open yard area, landscaping for building foundations, landscaping for street frontage, and landscaping for paved areas including loading areas. The Landscape Architect shall stamp and certify in writing that the plan is complete and accurately depicts and complies with the standards set forth in this Ordinance.

Following installation of landscaping, a written certification shall be submitted by the Landscape Architect certifying that all the required landscape materials specified on the plan have been installed in conformance with the landscape plan as approved by the Village. The development applicant shall commit, in writing, to maintain all required landscaping. The requirement that landscape plans and specifications be certified by a Landscape Architect may be waived by the Village. The requirements of this Section U may be modified by written Development Agreement between the Village and the Owner, in which case the requirements of the Development Agreement shall control.

The landscape plan shall be drawn on a site plan that includes:

- (a) A graphic scale (not smaller than one (1) inch = forty (40) feet).
- (b) A North arrow.
- (c) Date drafted.
- (d) Property lines, easements, and street rights-of-way with dimensions.
- (e) Location and dimensions of all landscaped areas; location and botanical name and size of all plant materials and ground cover; and the location of pertinent landscape features.

- (f) Location of existing and proposed utility improvements.
- (g) Proposed layout of vehicular use areas including the location, dimensions of parking spaces, parking lot islands, interior plantings, pedestrian walkways and circulation aisles.
- (h) Location of all existing significant trees on the site that the applicant proposes to remove; the location of all existing trees with a diameter breast height (dbh) greater than five (5) inches which are to be retained and counted towards minimum requirements.
- (i) The location, design, height and building material of proposed walls, planter boxes, and fences.
- (j) The direction of street and parking lot traffic using one-way or two-way arrows.
- (k) The location and extent of all waterways, wetlands and water features.
- (l) The location and extent of all primary and secondary environmental corridors as mapped by the Southeastern Wisconsin Regional Planning Commission (SEWRPC).

(3) **PRESERVATION OF EXISTING VEGETATION.**

Every attempt shall be made by the developer/applicant to preserve existing trees with a diameter breast height (dbh) of at least five (5) inches and significant trees which are to be counted towards minimum requirements. Significant tree(s) are any tree or grouping of trees which has been determined to be of high value by the Village staff and/or consultants because of its size (twenty-four (24) inches or greater DBH), age, historic significance or other professional criteria. When it is necessary to remove significant trees, the developer shall replace twenty-four (24) inches caliper or larger deciduous trees with six three (3) inches caliper deciduous trees, Conifers twenty-four (24) inches caliper or larger may be replaced with two (2) ten (10) foot tall conifers or three (3) six (6) foot to eight (8) foot coniferous trees. Existing trees to be saved during construction shall have a protective fence placed around the tree at the drip line.

(4) **HARDSCAPING.**

On unique site or sites with unique design opportunities, or properties located within the Village, hard landscaping features (such as sculptures or statues, walls, foundations, benches, scenic viewpoints, and scenic walkways) may be incorporated into a landscape in lieu of plantings, subject to review by the Village staff. Landscaping provided by hardscaping shall not preclude the need to provide plantings in other areas of the development.

(5) **LANDSCAPING REQUIRED FOR OPEN YARD AREAS.**

All lots shall provide a minimum amount of landscaping provided on the basis of open yard area which shall provide a combination of deciduous, evergreen, ornamental trees and shrubs. Landscaping for open yard area is intended to provide yard shade and to screen detached exterior appurtenances such as HVAC, utility boxes, standpipes, stormwater discharge pipes and other pipes. Landscaping for this purpose is most effective if located away from buildings. Landscaping for open yard area shall be:

- (a) In Multi-Family Residential Districts (not requiring the platting process): A minimum of two (2) evergreen or deciduous trees per one thousand (1,000) square feet of open yard area; two (2) ornamental trees or two (2) shrubs shall equal one (1) evergreen or deciduous tree.
- (b) In Business, Manufacturing and Institutional Districts: A minimum of one (1) evergreen or deciduous trees per one thousand (1,000) square feet of open yard area; two (2) ornamental trees or two (2) shrubs shall equal one (1) evergreen or deciduous tree.

**(6) LANDSCAPING REQUIRED FOR BUILDING FOUNDATIONS.**

All lots shall provide a minimum amount of landscaping for building foundations which shall provide a combination of ornamental trees and shrubs. Landscaping required for building foundations shall be placed so that, at maturity, the plant's drip line is located within ten (10) feet of the building's foundation. Larger trees shall not be used to meet this requirement. The intent is to provide a visual break in the mass of buildings and to provide a visual for all appurtenances such as HVAC, utility boxes, standpipes, stormwater discharge pipes and other pipes extending from the building. Landscaping for building foundations shall be:

- (a) In Multi-Family Residential Districts (not requiring the platting process): A minimum of one (1) ornamental tree per twenty (20) feet of building foundation. Two (2) shrubs shall equal one (1) ornamental tree.
- (b) In Business, Manufacturing and Institutional Districts: A minimum of one (1) ornamental tree per twenty (20) feet of building foundation. Two (2) shrubs shall equal one (1) ornamental tree.

**(7) LANDSCAPING REQUIRED FOR STREET FRONTAGE.**

All lots shall provide a minimum of landscaping in those areas that abut the right-of-way of a public highway, street or road to visually soften the appearance of development, which shall provide a combination of deciduous, evergreen, ornamental trees and shrubs. Front yard landscaping shall not, however, impede vehicle or pedestrian visibility and shall comply with the traffic visibility (vision triangle) requirements of Section ZN 3.06(1). Shrubs shall not be used to meet this requirement.

- (a) In Multi-Family Residential Districts (not requiring the platting process): A minimum of one (1) evergreen or deciduous trees per thirty (30) feet of street frontage. Two (2) ornamental trees or two (2) shrubs shall equal one (1) evergreen or deciduous tree.
- (b) In Business, Manufacturing and Institutional Districts: A minimum of one (1) evergreen or deciduous trees per fifty (50) feet of street frontage. Two (2) ornamental trees or two (2) shrubs shall equal one (1) evergreen or deciduous tree.

**(8) LANDSCAPING REQUIRED FOR PARKING AREAS.**

All parking areas shall provide a minimum of landscaping around the perimeter, which shall provide a combination of deciduous, evergreen, ornamental trees and shrubs. All landscaped areas located adjacent to a parking lot shall be separated from the paved area by a continuous minimum four (4) inch curb which is constructed of concrete. The use of berms shall constitute over seventy-five (75%) percent

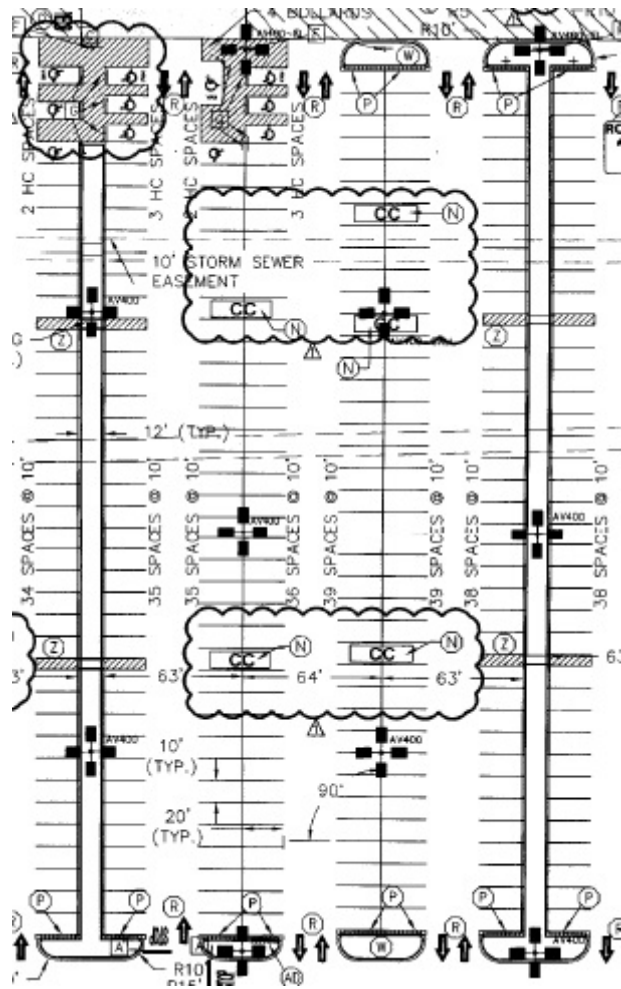
of the parking areas abutting a right-of-way. The berm shall be designed to be meandering and undulating with a minimum height of four (4) feet with slopes no greater than 4:1. Landscaping for parking lot perimeters shall be:

- (a) In Multi-Family Residential Districts (not requiring the platting process): A minimum of one (1) evergreen or deciduous trees per twenty-five (25) feet. Two (2) ornamental trees or four (4) shrubs shall equal one (1) evergreen or deciduous tree.
- (b) In Business, Manufacturing and Institutional Districts: A minimum of one (1) evergreen or deciduous trees per twenty-five (25) feet. Two (2) ornamental trees or four (4) shrubs shall equal one (1) evergreen or deciduous tree.
- (c) In (a) and (b) above, when abutting a residential district or use, deciduous and ornamental trees and/or shrubs are not permitted.

(9) **LANDSCAPING REQUIRED IN PARKING AREA INTERIORS.**

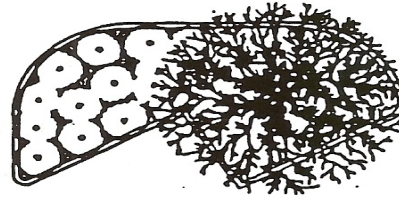
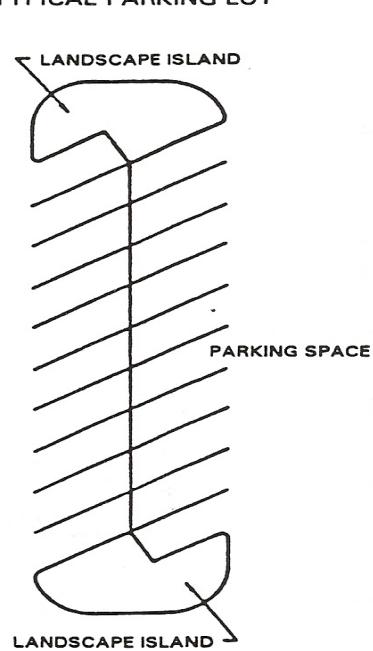
All off-street parking areas in which the parking aisle or parking bay does not terminate with a landscaped buffer yard shall have a landscaped island. The minimum size of each landscaped island shall be one hundred sixty (160) square feet and contain at least one (1) deciduous or ornamental tree. At a minimum, every third parking bay (defined grouping of parking stalls) shall have a continuous landscaped planting strip of not less than eight (8) feet in width running the entire length of the parking bay and shall contain at least one (1) deciduous or ornamental tree per fifty (50) feet.

Location of landscaped areas, plant materials, protection afforded the plantings, including curbing and provision for maintenance shall be subject to approval by the Village staff. All plans for proposed parking areas shall include a topographic survey and grading plan which shows existing and proposed grades and location of improvements. The preservation of existing trees, shrubs, and other natural vegetation in the parking area may be included in the calculation of required minimum landscaped area.

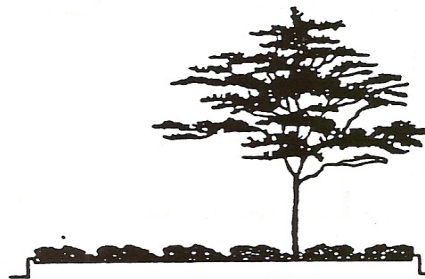


## ILLUSTRATION OF A TYPICAL PARKING LOT LANDSCAPE ISLAND

TYPICAL PARKING LOT



LANDSCAPE ISLAND  
(PLAN VIEW)



LANDSCAPE ISLAND  
(CROSS-SECTION)

### (10) REQUIREMENTS FOR SINGLE-FAMILY, TWO-FAMILY AND MULTI-FAMILY RESIDENTIAL DEVELOPMENT.

The landscaping plan shall be included with the submittal of all preliminary plats to be approved during the platting process by the Village.



## **CHAPTER 4**

### **DISTRICT REGULATIONS**

ZN 4.01	Zoning Districts
ZN 4.02	Agricultural Districts
ZN 4.03	Residential Districts
ZN 4.04	Business Districts
ZN 4.05	Manufacturing Districts
ZN 4.06	Public Districts
ZN 4.07	Conservancy Districts
ZN 4.08	Overlay Districts



## **ZN 4.01 ZONING DISTRICTS.**

### **(1) ESTABLISHMENT.**

For the purpose of this Ordinance, the Village of Somers, Wisconsin is hereby divided into thirty-four (34) basic zoning districts and four (4) overlay districts as follows:

A-1	Agricultural Preservation District
A-2	General Agricultural District
A-3	Agricultural Related Manufacturing, Warehousing and Marketing District
A-4	Agricultural Land Holding District
AE-1	Agricultural Equestrian Cluster Single-Family District
R-1	Rural Residential District
R-2	Suburban Single-Family Residential District
R-3	Urban Single-Family Residential District
R-4	Urban Single-Family Residential District
R-4.5	Urban Single-Family Residential District
R-5	Urban Single-Family Residential District
R-6	Urban Single-Family Residential District
R-7	Suburban Two-Family and Three-Family Residential District
R-8	Urban Two-Family Residential District
R-9	Multiple-Family Residential District
R-10	Multiple-Family Residential District
R-11	Multiple-Family Residential District
R-12	Mobile Home/Manufactured Home Park-Subdivision District
B-1	Neighborhood Business District
B-2	Community Business District
B-3	Highway Business District
B-4	Planned Business District
B-5	Wholesale Trade and Warehousing District
---	Adult Establishments
BP-1	Business Park District
B-94	Interstate Highway 94 Special Use Business District
M-1	Limited Manufacturing District
M-2	Heavy Manufacturing District
M-3	Mineral Extraction District
M-4	Sanitary Landfill and Hazardous Waste Disposal District
I-1	Institutional District
PR-1	Park-Recreational District
C-1	Lowland Resource Conservancy District
C-2	Upland Resource Conservancy District

FPO	Floodplain Overlay District
PUD	Planned Unit Development Overlay District
AO	Airport Overlay District
RC	Rural Cluster Development Overlay District

(2) **DISTRICT DELINEATION.**

In determining which parcels of land shall be located in the above districts so as to accomplish the intended purpose of these districts, the Village Department of Planning and Development and the Village Board shall make use of, without limitation due to enumeration, all pertinent resources, data, statistics, tables, charts and maps relating to existing land use, adjacent land use, soils, future development, and existing and proposed roads and utilities.

## **ZN 4.02 AGRICULTURAL DISTRICTS.**

(1) **A-1 AGRICULTURAL PRESERVATION DISTRICT.**

- (a) **Primary Purpose and Characteristics.** The Village Board of Trustees recognizes that the rapid conversion of farm land to urban use has lead to increasing public concern over such conversion. This concern centers on the perceived loss of the local agriculture economic base, loss of agricultural land as a valuable natural resource with the attendant loss of the aesthetic and environmental values associated with that resource, and the loss of the rural lifestyle and the unique cultural heritage which emanates from that lifestyle, and the attendant high costs of providing urban services as well as resolving potential urban-rural conflicts which arise as a result of urban encroachment into rural areas. Therefore, the A-1 Agricultural Preservation District is intended to maintain, enhance, and preserve agricultural lands historically utilized for crop production and the raising of livestock. The preservation of such agricultural lands is intended to conserve energy, prevent urban sprawl, maintain open space, retain natural systems and natural processes, control public cost, preserve the local economic base, promote local self-sufficiency, preserve the rural life-style, and maintain regional, state and national agricultural reserves. The District is further intended to prevent the premature conversion of agricultural land to scattered residential, commercial and industrial uses.

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) **Principal uses.**

- 1 Apiculture (Beekeeping)

- 2 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
- 3 Contract sorting, grading and packaging of fruits and vegetables
- 4 Corn shelling
- 5 Dairy farming and general agriculture
- 6 Essential Services
- 7 One (1) single-family dwelling
- 8 General farm buildings including agricultural windmills, barns, silos, sheds and storage bins provided, however, that said structures are located at least one hundred (100) feet away from any off premise neighboring residential buildings
- 9 Existing residential dwellings remaining after the consolidation of farms with said dwellings not to be considered a non-conforming use, provided that the remaining lot shall conform to the yard requirements of this district and the lot area and width requirements for a second single-family farm dwelling as set forth in Section ZN 5.03(8)(b)(113) of this Ordinance
- 10 Single-family residence on lots of record created prior to the adoption of this Ordinance where said existing lot is less than thirty-five (35) acres, (see Section ZN 5.02(5))
- 11 Floriculture (cultivation of ornamental flowering plants)
- 12 Forest and game management
- 13 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
- 14 Grazing or Pasturing
- 15 Greenhouses, not including retail sales of plants and flowers
- 16 Hay baling
- 17 Livestock raising, except commercial feed lot and fur farms
- 18 Orchards
- 19 Paddocks
- 20 Pea viners

- 21 Plant nurseries
- 22 Poultry raising, except commercial egg production and commercial poultry feed lots
- 23 Raising of grain, grass, mint and seed crops
- 24 Raising of tree fruits, nuts and berries
- 25 Riding stables and indoor riding arenas (private)
- 26 Sod farming
- 27 Threshing services
- 28 Vegetable raising
- 29 Viticulture (grape growing)
- (c) Accessory Uses
  - 1 Feed lot (not commercial and only for permitted farm uses)
  - 2 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
  - 3 Home occupations and professional home offices
  - 4 Roadside stands (one (1) such stand permitted only for selected farm products produced on the premises and not exceeding three hundred (300) square feet in floor area)
  - 5 Small wind energy system
  - 6 Solar energy system
  - 7 Storage, curing, drying, churning and packaging of products and crops produced on the land provided, however, such products are not processed on the land and provided further that such products are not commercially sold as part of a retail business conducted on the land
  - 8 Swimming pools and spas (see also Section ZN 3.09)
  - 9 Fences (see also Section ZN 3.08(2))
  - 10 Decks and Patios (see also Section 3.15)
- (d) Conditional Uses (see also Section ZN 5.03(8))

- 1 Air strips, landing fields and hangars for personal or agricultural related uses
- 2 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
- 3 Concrete and asphalt batch plants temporarily located on a parcel
- 4 Event Barns
- 5 Gas and electric utility uses not requiring authorization under §196.491(3), Wis. Stats.
- 6 Housing for farm laborers or caretakers
- 7 Housing for seasonal or migratory farm workers
- 8 Kennels (Commercial or non-commercial)
- 9 A second single-family farm related residential dwelling
- 10 Large wind energy system
- 11 Storage of recreational vehicles, boats or snowmobiles
- 12 Utility substation
- 13 Bed and breakfast establishments
- 14 Riding stables and indoor riding arenas (public)
- 15 Borrow pits (temporary); stockpiling or filling of clean fill materials

(e) Parcel Area and Width.

- 1 Farm structures hereafter erected, placed, moved or structurally altered and related farm activities shall provide a contiguous area of not less than thirty-five (35) acres and no farm shall have a frontage of less than six hundred (600) feet in width.

(f) Building Type, Separation, Number, Height and Area.

- 1 No structure or improvement may be built on any land in the A-1, Agricultural Preservation District unless said structure or improvement is consistent with agricultural uses.
- 2 For purposes of farm consolidation, farm residences or structures which existed prior to the adoption of this Ordinance may be separated from a larger farm parcel.

- 3 No farm buildings or parts of farm buildings shall exceed one hundred (100) feet in height
- 4 No residential dwelling or part thereof, shall exceed thirty-five (35) feet in height
- 5 A total minimum floor area of a residential dwelling shall be a minimum of one thousand (1,000) square feet with a minimum first floor area of one thousand (1,000) square feet. All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five/twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures.
- 4 Rear yard - not less than fifty (50) feet.

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system.
- 2 Public sanitary sewer.

- (i) Rezoning, Conditional Uses, and Enforcement. Any rezoning of any parcel of land in the A-1 Agricultural Preservation District shall be in accordance with §91.48, Wis. Stats. Furthermore, the Department of Agriculture shall be notified of the approval of any conditional use permits in the A-1 District. Enforcement provisions necessary for the proper administration of the Farmland Preservation Act shall be as specified in Chapter 91 of the Wisconsin Statutes.

(2) **A-2 GENERAL AGRICULTURAL DISTRICT.**

- (a) Primary purpose and characteristics. The A-2 General Agricultural District is intended to provide for, maintain, preserve, and enhance agricultural lands historically utilized for crop production but which are not included within the A-1 Agricultural Preservation District and which are generally best suited for smaller farm units, including truck farming, horse farming, hobby



farming, orchards, and other similar agricultural related farming activity. This District is also intended to provide areas for activities normally associated with rural surroundings, such as rural estate and other existing residential development, such as existing residential development abutting town and Village roads along which further development may occur as essential services become available.

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

- (b) Principal Uses. In addition to those principal uses permitted in the A-1 Agricultural Preservation District, the following are deemed to be principal uses in the A-2 General Agricultural District:
  - 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
  - 2 Equestrian trails.
  - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
- (c) Accessory Uses
  - 1 Those accessory uses permitted in the A-1 Agricultural Preservation District.
  - 2 Small wind energy system
  - 3 Solar energy system
- (d) Conditional Uses (see also Section ZN 5.03(8))
  - 1 Air strips, landing fields and hangars for personal or agricultural related uses
  - 2 Assemblies over five thousand (5,000) or more individuals
  - 3 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
  - 4 Concrete and asphalt batch plant temporarily located on a parcel
  - 5 Event Barns
  - 6 Housing for farm laborers or caretakers

- 7 Kennels (commercial or non-commercial)
- 8 Large wind energy system
- 9 Storage of recreational vehicles, boats and snowmobiles
- 10 Utility substations
- 11 Bed and breakfast establishments
- 12 Borrow pits (temporary); stockpiling or filling of clean fill materials
- 13 Riding stables and indoor riding arenas (public)

(e) Parcel Area and Width.

- 1 Parcels shall have a minimum area of ten (10) acres, and
- 2 All such parcels shall have a frontage of not less than three hundred (300) feet in width.

(f) Building Height and Area

- 1 No farm building or farm related building shall exceed one hundred (100) feet in height
- 2 No residential dwelling shall exceed thirty-five (35) feet in height
- 3 The total minimum floor area of a residential dwelling shall be one thousand (1,000) square feet with a minimum first floor area of one thousand (1,000) square feet
- 4 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five/twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures

- 4 Rear yard - not less than fifty (50) feet
- (h) Authorized Sanitary Sewer System
- 1 On-site sewage disposal absorption system
  - 2 Public sanitary sewer
- (3) **A-3 AGRICULTURAL RELATED MANUFACTURING, WAREHOUSING AND MARKETING DISTRICT.**
- (a) Primary purpose and characteristics. The primary purpose of this district is to provide for the proper location and regulation of manufacturing, warehousing, storage, and related industrial, commercial, marketing and service activities that are dependent upon or closely allied to the agricultural industry. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).
- It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.
- (b) Principal Uses.
- 1 Agricultural warehousing (commercial)
  - 2 Seed and grain processing and preparation
  - 3 Blending and preparing of flour
  - 4 Breeding services
  - 5 Canning of fruits, vegetables, preserves, jams and jellies
  - 6 Commercial storage, curing, drying, churning, processing and packaging of agricultural products
  - 7 Contract sorting, grading and packaging services for fruits and vegetables
  - 8 Cornshelling, hay baling and threshing services
  - 9 Drying and dehydrating fruits and vegetables

- 10 Fluid milk processing
- 11 Fruit and vegetable pickling, vegetable sauces and seasoning, salad dressing preparation
- 12 Fur farm
- 13 Grain elevators and bulk storage of feed grains
- 14 Grist mill services
- 15 Milling of rice, vegetable and soybean oil
- 16 Poultry and small game dressing and packing providing all operations shall be conducted within an enclosed building
- 17 Poultry hatching services
- 18 Preparation of cereals
- 19 Preparation of feeds for animal and fowl
- 20 Production of chocolate and cocoa
- 21 Production of condensed and evaporated milk
- 22 Production of creamery butter
- 23 Production of flour and other grain mill product
- 24 Production of frozen fruits, fruit juices, vegetables and other specialties
- 25 Production of natural and processed cheese
- 26 Production of wine, brandy and brandy spirits
- 27 Sales or maintenance of farm implements and related equipment
- 28 Sugar processing and production
- 29 Wet milling of corn

(c) Accessory Uses.

- 1 Agricultural Windmills
- 2 Living quarters for not more than two (2) watchmen or caretakers.

- 3 Small wind energy system
- 4 Solar energy system
- (d) Conditional Uses (see also Section ZN 5.03(8)).
  - 1 Commercial egg production
  - 2 Commercial feed lot
  - 3 Concrete and asphalt batch plants temporarily located on a parcel
  - 4 Fertilizer production, sales, storage, mixing, and blending
  - 5 Gasohol and fuel related alcohol plants
  - 6 Large wind energy system
  - 7 Livestock sale facilities
  - 8 Malt production
  - 9 Meat packing, slaughterhouse and production of sausages and other meat products
  - 10 Processing and packaging of animal bedding materials
  - 11 Production of animal and marine fats and oils
  - 12 Production of shortening, table oils, margarine and other edible fats and oils
  - 13 Utility substations
- (e) Parcel Area and Width.
  - 1 Parcels shall have a minimum area of five (5) acres, and
  - 2 All such parcels shall have a frontage of not less than three hundred (300) feet in width
- (f) Building, Height, Area and Design Standards.
  - 1 No building located in an A-3 district shall exceed one hundred (100) feet in height
  - 2 No maximum or minimum building areas shall be required in the A-3 District due to the variety of uses within this District and the diverse building demands of each use.

- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures.
- 4 Rear yard - not less than fifty (50) feet.

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system
- 2 Public sanitary sewer system

(4) **A-4 AGRICULTURAL LAND HOLDING DISTRICT.**

- (a) Primary purpose and characteristics. The Village Board of Trustees recognizes that the premature piecemeal conversion of farmland to urban use has led to increasing public concern over such conversion. This concern centers on the sprawling of urban population, the increasing cost of providing urban services, and the loss of agricultural lands as a valuable natural resource. Therefore, the Agricultural Land Holding District is intended to maintain and generally preserve for a limited time period those lands where urban expansion is proposed to take place on the adopted regional land use plan or other local land use plans that refine and detail the regional land use plan. It is intended that the status of all areas placed in this district be reviewed by the Village Plan Commission no less frequently than every two (2) years to determine whether, in light of current development trends, there should be a transfer of all or any part of such areas to some other appropriate use district. Any such review will consider the need for permitting other uses on such land, the nature of the use or uses to be permitted, and the cost and availability of the public services and facilities which will be necessitated by such new use or uses.

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to

list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village's Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal uses.

- 1 Apiculture (Beekeeping)
- 2 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
- 3 Contract sorting, grading and packaging of fruits and vegetables
- 4 Corn shelling
- 5 Dairy farming and general agriculture
- 6 Essential Services
- 7 One (1) Farm Dwelling
- 8 General farm buildings including agricultural windmills, barns, silos, sheds and storage bins provided, however, that said structures are located at least one hundred (100) feet away from any off premise neighboring residential buildings
- 9 Existing residential dwellings remaining after the consolidation of farms with said dwellings not to be considered a non-conforming use, provided that the remaining lot shall conform to the yard requirements of this district and the lot area and width requirements for a second single-family farm dwelling as set forth in Section ZN 5.03(8) of this Ordinance
- 10 Single-family residence on lots of record created prior to the adoption of this Ordinance where said existing lot is less than thirty-five (35) acres, (see Section ZN 5.02(5))
- 11 Floriculture (cultivation of ornamental flowering plants)
- 12 Forest and game management
- 13 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
- 14 Grazing or Pasturing
- 15 Greenhouses, not including retail sales of plants and flowers

- 16 Hay baling
- 17 Livestock raising, except commercial feed lot and fur farms
- 18 Orchards
- 19 Paddocks
- 20 Pea viners
- 21 Plant nurseries
- 22 Poultry raising, except commercial egg production and commercial poultry feed lots
- 23 Raising of grain, grass, mint and seed crops
- 24 Raising of tree fruits, nuts and berries
- 25 Sod farming
- 26 Threshing services
- 27 Vegetable raising
- 28 Viticulture (grape growing)

(c) Accessory Uses.

- 1 Feed lot (not commercial and only for permitted farm uses)
- 2 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 3 Home occupations and professional home offices
- 4 Roadside stands (one (1) such stand permitted only for selected farm products produced on the premises and not exceeding three hundred (300) square feet in floor area)
- 5 Small wind energy system
- 6 Solar energy system
- 7 Storage, curing, drying, churning and packaging of products and crops produced on the land provided, however, such products are not processed on the land and provided further that such products are not commercially sold as part of a retail business conducted on the land



- 8       Swimming pools and spas (see also Section ZN 3.09)
- 9       Fences (see also Section ZN 3.08(2))
- 10      Decks and patios (see also Section ZN 3.15)
- (d)     Conditional Uses (see also Section ZN 5.03(8)).
  - 1       Air strips, landing fields and hangars for personal or agricultural related uses
  - 2       Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
  - 3       Concrete and asphalt batch plants temporarily located on a parcel
  - 4       Gas and electric utility uses not requiring authorization under §196.491(3), Wis. Stats.
  - 5       Housing for farm laborers or caretakers
  - 6       Housing for seasonal or migratory farm workers
  - 7       A second single-family farm related residential dwelling
  - 8       Storage of recreational vehicles, boats or snowmobiles
  - 9       Utility substation
  - 10      Large wind energy systems
  - 11      Bed and breakfast establishments
  - 12      Borrow pits (temporary); stockpiling or filling of clean fill materials
  - 13      Riding stables and indoor arenas (public)
- (e)     Parcel Area and Width.
  - 1       Farm structures hereafter erected, placed, moved or structurally altered and related farm activities shall provide a contiguous area of not less than thirty-five (35) acres and no farm shall have a frontage of less than six hundred (600) feet in width.
- (f)     Building Type, Separation, Number, Height and Area.
  - 1       No structure or improvement may be built on any land in the A-4, Agricultural Land Holding District unless said structure or improvement is consistent with agricultural uses.

- 2 For purposes of farm consolidation, farm residences or structures which existed prior to the adoption of this Ordinance may be separated from a larger farm parcel.
- 3 No farm buildings or parts of farm buildings shall exceed one hundred (100) feet in height
- 4 No residential dwelling or part thereof, shall exceed thirty-five (35) feet in height
- 5 A total minimum floor area of a residential dwelling shall be a minimum of one thousand (1,000) square feet with a minimum first floor area of one thousand (1,000) square feet
- 6 All residential dwellings shall be attached to a permanent foundation, be properly connected to required utilities, have a building footprint of not less than twenty-four (24) feet in width, have a roof pitch of not less than four-twelfths (4/12), and an eave extension of at least six (6) inches.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures
- 4 Rear yard - not less than fifty (50) feet

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system
- 2 Public sanitary sewer

(5) **AE-1 AGRICULTURAL EQUESTRIAN CLUSTER SINGLE-FAMILY DISTRICT.**

- (a) Primary purpose and characteristics. The AE-1 Agricultural Equestrian Cluster Single-Family District is intended to preserve rural landscape character; sensitive natural resource areas; equestrian buildings, barns, paddocks, pastures, and scenic corridors (vistas); while permitting residential estate type housing on clustered lots as a secondary use and integrated as part of an equestrian facility. The AE-1 Agricultural Equestrian Cluster Single-Family District may be served either by on-site soil absorption sewage disposal systems or by public sanitary sewer facilities. Specific objectives are as follows:

- 1 To maintain and protect rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, shorelands, prairies, ridge tops, steep slopes, and critical species habitat by setting them aside from development and allow for development of equestrian facilities.
- 2 To provide quality residential development that has direct access to equestrian facilities.
- 3 To preserve scenic views and to minimize views of new development from existing streets.
- 4 To provide for the unified and planned development of clustered single-family, low-density residential uses, incorporating large areas of permanent protected equestrian facilities, open space, and natural resources.
- 5 To provide for greater design flexibility in the siting of dwellings and equestrian features in order to minimize the disturbance of the rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
- 6 To create groups of dwellings with direct visual and physical access to open space and equestrian trails while separating vehicular traffic from the equestrian facilities.
- 7 To permit equestrian use of open space by residents of the development and the public, when appropriate.
- 8 To create a network of equestrian trails between equestrian developments and public land.

(b) Principal Uses.

- 1 Equestrian Facility, private, confined to a single lot including equestrian buildings, such as, barns, arenas, silos, storage sheds, cribs, paddocks, and stables.
- 2 Clustered single-family detached dwellings.
- 3 Community living arrangements having a capacity for eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 4 Essential services.
- 5 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and which are in conformance with all state statutory requirements.
- 6 Open space, including:

- a Conservation of land in its natural state (for example, woodland, fallow field, or managed meadow.)
- b Wildlife sanctuary, forest preserve, or similar uses designated for the protection and propagation of wildlife.
- c Pasture for horses
- d Passive recreation, including, but not limited to, hiking trails, bridle trails, picnic areas, community gardens, and lawn area.
- e Easements for access, drainage, sewer and water lines, pipelines, or other public purposes.
- f Stormwater management facilities including detention basins, retention basins, rain gardens, and other best management practices.
- g Water supply, and sewerage systems for individual lots, cluster groups, or the entire development.
- h Utility and street rights-of-way except that there land areas shall not count toward the minimum open space requirement.

(c) Residential Accessory Uses.

- 1 Accessory structures such as detached garages, sheds, gazebos, and boathouses.
- 2 Home occupations and professional home offices.
- 3 Small wind energy system.
- 4 Solar energy system.
- 5 Swimming pools and spas.
- 6 Fences.
- 7 Decks and patios (see also Section ZN 3.15).

(d) Equestrian Conditional Uses.

- 1 Private roads and gated entrances.
- 2 Public equestrian facility offering services open to the public (such as riding classes, public riding hours, and shows).

- 3      Housing for Caretakers.
  - 4      Bridle equipment sales and repair (pro shop).
  - 5      Utility substations.
  - 6      Wind energy systems.
  - 7      Solar energy systems.
- (e)      Residential Conditional Uses.
- 1      Private roads and gated entrances provided that said private roads: meet local unit of government road specifications and standards, are located within an access easement which shall be a minimum of sixty-six (66) feet wide, are maintained by the Homeowners Association comprised of the owners of all lots within said equestrian development and meet all safety and access standards promulgated by the local unit of government fire and rescue officials.
  - 2      Community living arrangements having nine (9) but not more than fifteen (15) persons which shall be in conformance with all state statutory requirements.
  - 3      Utility substations.
  - 4      Wind energy systems.
  - 5      Solar energy systems.
  - 6      Community swimming pools.
  - 7      Community center for the use of residents not including equestrian facilities.
- (f)      Required Facilities. The district requires that as a condition of approval there is an existing equestrian facility on the site with a minimum capacity of one hundred (100) horses, or that an equestrian facility will be built. For those circumstances when facilities are not in place there will be no zoning permits granted on the residential portion of the site until the equestrian facility is built according to submitted plan and guarantees made that it will remain for perpetuity through deed restrictions.
- (g)      Separation Distances for Residential Cluster Groups.
- 1      The outer boundaries of all residential cluster groups shall conform to the following separation distances:

From all tract boundaries	50 feet
From equestrian buildings, barns, and paddocks	50 feet
From other cluster groups	50 feet
From wetlands, floodplains, or navigable waterways	35 feet
From active recreation areas, such as courts or playing fields	50 feet

- 2 All separation areas for cluster groups along existing streets shall be landscaped in accordance with Chapter 18 of the Village Ordinances in order to block views of new residential development, preserve scenic views, and to protect rural landscape character.
- 3 The separation distances along existing arterial streets and tract boundaries may be reduced to a minimum of fifty (50) feet if the applicant can demonstrate that existing vegetation, topography or a combination of these form an effective visual screen.

(h) Overall Density and Dimensional Standards.

- |   |                                    |              |
|---|------------------------------------|--------------|
| 1 | Minimum tract size                 | 120 acres    |
| 2 | Maximum density[a]                 | 1 du/5 acres |
| 3 | Equestrian Facility/open space [b] | 60 percent   |
- a Existing dwellings that may or not be part of a farmstead shall be counted towards the total density. Housing for caretakers does not count toward density. Acres refer to gross land area including all lands within tract, except existing street, railroad, existing trail and existing utility rights-of-way and/or easements. Only twenty (20%) percent of wetlands and floodplain may be counted toward the calculation of density.
  - b In the calculation of equestrian/open space areas, the following shall be excluded: private residential lot areas; existing and/or planned public street rights-of-way and/or private street easements; existing public trail rights-of-way and/or easements; and existing railroad and existing utility rights-of-way and/or easements.

(i) Lot Density and Dimensional Standards.

1 For equestrian facility lots and residential dwelling lots:

<u>Development Standard</u>	<u>Equestrian Facilities Lot</u>	<u>Residential Lot</u>
Minimum lot area	10 acres	60,000 sq. ft.
Minimum lot width (a)	300 feet	150 feet
Street yard	40 feet	50 feet
Shore yard	Not less than 75 feet from the ordinary high water mark of any navigable water	Not less than 75 feet from the ordinary high water mark of any navigable water
Side yard	25 feet	25 feet
Rear yard	50 feet	50 feet
Accessory buildings setback and size regulation (b)	See Section ZN 3.14(7)	See Section ZN 3.14(7)
Maximum building height 65 feet for equestrian building; 35 feet for separate caretaker building - 35 feet		
Maximum building coverage	N/A	10 percent

- a Lot frontage may be reduced on lots located on a cul-de-sac, court, or curve to eighty (80) feet provided there is at least one hundred fifty (150) feet at the building setback line.
- b Accessory buildings on residential lots are not permitted in front yards.

(j) Design Standards for Equestrian Facility.

- 1 All equestrian facility, including equestrian buildings, such as, barns, arenas, silos, storage sheds, cribs, paddocks, and stables, must be contained to a single lot.
- 2 A site plan for the equestrian facility lot must be included as part of the plat and zoning petition.
- 3 A plat may contain only one (1) lot with equestrian facilities.
- 4 In locating equestrian facilities, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime agricultural soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than twenty (20%) percent of a single wooded lot is cleared for the construction of a barns, arenas, silos, storage sheds, cribs, paddocks, and stables, and onsite soil absorption system.

- 5 Equestrian facility shall abut open space to the front or rear for a distance of at least fifty (50) feet in order to provide direct access to the open space. Open space across a street located on the subject development property shall qualify for this requirement.

(k) Design Standards for Residential Cluster Groups.

- 1 All dwelling shall be grouped in clusters groups, each of which shall contain at least two (2) but not more than twelve (12) units and shall be surrounded by equestrian facility/open space.
- 2 Cluster groups may contain more than twelve (12) units, and cluster groups may be assembled into larger groupings not separated by equestrian facility/open space, provided that the applicant can demonstrate that such an alternative plan is more appropriate for the tract and will meet both the general intent and design standards of this Ordinance.
- 3 A plat may contain one (1) or more cluster groups.
- 4 Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and interior equestrian facility/open space. When the development does not contain individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is closer to any unit than fifty (50) feet.
- 5 The outer boundaries of each cluster group shall meet the separation distances specified in Section ZN 4.02(5)(g).
- 6 Cluster groups shall be defined and separated by equestrian facility/open space in order to provide direct access to the equestrian facility/open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way or street easement is designed as a boulevard.
- 7 All lots in a cluster group shall take access from interior streets.
- 8 All lots in a cluster group shall abut equestrian facility/open space to the front or rear for a distance of at least fifty (50) feet. Equestrian facility/open space across a street located on the subject development property shall qualify for this requirement.
- 9 In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime agricultural soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than twenty (20%) percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and onsite soil absorption system.



- 10 Street trees shall be provided as required by the local unit of government land division or subdivision ordinance within which the development is located. If no such local unit of government land division or subdivision ordinances exists or requires the planting of street trees, street trees shall be required in cluster groups at a minimum rate of one (1) two (2) inch caliper tree per dwelling unit and shall comply with the requirements of Chapter 18 of the Village Ordinances.

(l) Design Standards for Open Space.

- 1 Open space shall consist of only those uses identified in Section ZN 4.02(5)(b)6.
- 2 The location of open space shall be consistent with the objectives of any applicable comprehensive plan or comprehensive plan component.
- 3 All open space areas shall be part of a larger contiguous and integrated open space system. At least seventy-five (75%) percent of the open space shall be contiguous to another open space area. For the purpose of this section, contiguous shall be defined as located within fifty (50) feet across which access is possible, for example on opposite sides of an internal street.
- 4 Open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Ordinance. Primary and secondary environmental corridors and isolated natural areas as identified by the Southeastern Wisconsin Regional Planning Commission are of particular significance for protection.
- 5 Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes, as recommended by professionals in the area being modified. Permitted modifications may include woodland management, reforestation, meadow management, wetlands management, stream bank protection, and buffer area landscaping.
- 6 All wetland, floodplain, unique wildlife habitat areas, steep slopes over twelve (12%) percent, one hundred (100%) percent of lowland environmental corridor and at least eighty (80%) percent of upland primary environmental corridors shall be contained in open space.
- 7 Common boundaries with existing or future open space on adjacent tracts, when shown in an applicable comprehensive plan or comprehensive plan component, shall be established whenever possible.
- 8 To preserve scenic views, ridge tops and hill tops should be contained within open space wherever possible. Trees shall not be removed from ridge tops or hill tops.

- 9 At least eighty (80%) percent of the area of existing woodlands shall be contained within open space; twenty (20%) percent of the area of existing woodlands may be used for lot areas and residential development. This limitation may be exceeded under the following conditions:
    - a The site is primarily wooded and development at permitted density would not be possible without encroaching further on woodlands.
    - b Any encroachment on woodlands beyond twenty (20%) percent shall be the minimum needed to achieve maximum permitted density.
  - 10 No open space shall be less than ten thousand (10,000) square feet in area, with the exception of landscape islands in cul-de-sac streets, and not less than thirty (30) feet in width at any point. Open space not meeting this standard shall not be counted toward the total required percentage of open space.
  - 11 The boundaries of open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where open space ends and private lot areas begin. Where structural demarcations, such as fences or fence posts, are used, they shall be the minimum needed to accomplish the objective.
  - 12 Trails in open space that abut residential lots in cluster groups shall be identified by plantings, fences, or other landscape features.
  - 13 Under no circumstances shall all open space be isolated in one (1) area of the development. Open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other common facilities.
  - 14 Open space shall include lands located along existing public roadways in order to preserve existing rural landscape character as seen from these roadways, and shall, in no case, contain less than the required buffer, setback area, or separation distance.
  - 15 Safe and convenient pedestrian access and access for maintenance purposes shall be provided to open space areas. At least one (1) access point per cluster group shall be provided, having a width equal to or greater than fifty (50) feet. This width may be reduced to no less than thirty (30) feet if the applicant can demonstrate that, meeting the lot width requirement would run counter to the objectives of this Ordinance.
- (m) Ownership and Maintenance of Common Facilities and Open Space.

- 1 The following methods may be used, either singly or in combination, to own any common facilities (i.e. community swimming pools and community center) and/or open space. Common facilities and open space shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities and open space. Ownership methods shall conform to the following:
  - a Owners Association. Common facilities and/or open space shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein. The homeowners association shall be governed according to the following:
    - 1) The applicant shall provide to the Village Department of Planning and Development a description of the organization, including its bylaws and all documents governing maintenance requirements and use restrictions for common facilities and/or open space.
    - 2) The organization shall be established by the owner or applicant and shall be operating (with financial subsidy by the applicant, if necessary) prior to the sale of any dwelling units in the development.
    - 3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
    - 4) The organization shall be responsible for maintenance and insurance of common facilities and/or open space.
    - 5) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities and/or open space.
    - 6) The organization shall have or hire adequate personnel to administer, maintain, and operate common facility and/or open space.
    - 7) The applicant for any tract proposed to contain common facilities and/or open space shall arrange with the Village Assessor a method of assessment of the common facilities and/or open space which will allocate to each tax parcel in the development a share of the total tax assessment for such common facilities and/or open space. Real estate taxes shall be paid by the individual unit owner directly to the Village.
    - 8) Written notice of the proposed transfer of common facilities and/or open space by the homeowners association or the assumption of maintenance of common facilities and/or open space must be given at all members of the organization and to the Village at least thirty-nine (39) days prior to such event.

- b Condominium. Common facilities and/or equestrian facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved by the Village Attorney and shall be in conformance with the “Condominium Ownership Act” of 1977 (Chapter 703, Wisconsin Statutes), as amended. All open space and other common facilities shall be held as “common element” by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.
- c Fee simple dedication to a public agency. The Village or other public entity acceptable to the Village may, but shall not be required to, accept any portion of the common facilities and/or open space, provided that:
  - 1) There shall be no cost of acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
  - 2) Any facilities so dedicated shall be accessible to the residents of Village, if the Village so chooses;
  - 3) The Village or other public entity shall maintain such common facilities and/or open space.
  - 4) The equestrian facility owner shall hold a conservation easement on the land and facilities so dedicated, protecting the common facilities and/or open space from development in perpetuity.
- d Dedication of conservation easements to a public agency. The Village or other public agency acceptable to the Village may, but shall not be required to, accept easements for public use of any portion of the common facilities and/or open space, title of which is to remain in private ownership, provided that:
  - 1) There shall be no cost of easement acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
  - 2) A satisfactory maintenance agreement shall be reached between the owner and the Village.
  - 3) Lands under a Village easement may or may not be accessible to the residents of the Village.
- e Fee simple dedication to a private conservation organization. An owner may dedicate any portion of the common facilities to a private, not-for-profit conservation organization, provided that:

- 1) The organization is acceptable to the Village and is a bona fide conservation organization;
  - 2) The conveyance contains appropriate provisions for proper reverter or retransfers in the event that the organization becomes unwilling or unable to continue carrying out its functions.
  - 3) A maintenance agreement acceptable to the Village is established between the owner and the organization.
- f Transfer of easements to a private conservation organization.
- 1) The organization is acceptable to the Village and is a bona fide conservation organization;
  - 2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
  - 3) A maintenance agreement acceptable to the Village is established between the owner and the organization.
- g Ownership retained by the original landowner and/or equestrian facility owner.
- 1) The Village and the residents of the development shall hold conservation easements on the land protecting it from any further development.
  - 2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.
- h Other methods acceptable to the Village Department of Planning and Development.
- 2 Maintenance and operation of common facilities and open space.
- a A plan and narrative for the use, maintenance, and insurance of all common facilities and open space, including provisions for funding, shall be provided to and approved by the Village Department of Planning and Development prior to preliminary plan approval. Such plan shall:
- 1) Define ownership;

- 2) Establish necessary regular and periodic operation and maintenance responsibilities, including mowing schedules, weed control, planting schedules, clearing and cleanup.
  - 3) Include a manure management plan.
  - 4) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
  - 5) At the discretion of the Village Department of Planning and Development, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities and open space for a maximum of one (1) year.
- b In the event that the organization(s) established to own and/or maintain common facilities and open space, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in accordance with the development plan and all applicable laws, rules and regulations, the Village may serve written notice upon such organization, and upon the residents and owners of the uses related thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, and any permits may be revoked or suspended. The Village may enter the premises and take corrective action.
- c The costs of corrective action by the Village shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and open space and shall become a lien on said properties. The Village, at the time of entering upon such common facilities and open space for the purpose of maintenance, shall file a notice of such lien in the office of the Village Register of Deeds upon the properties affected by such lien.
- 3 Leasing of common facilities and/or open space. Common facilities and/or open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:
- a The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
  - b The common facilities and/or open space lands to be leased shall be maintained for the purpose set forth in the ordinance.

- c The operation of such leased common facilities and/or open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
  - d The lease, and any transfer of assignment thereof, shall be subject to the approval of the Village Board.
  - e Lease agreements so entered upon shall be recorded in the office of the Village Register of Deeds within thirty (30) days of their execution, and a copy of the recorded lease shall be filed with the Village Board.
- 4 Conservation. Common facilities and open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village Department of Planning and Development and duly recorded in the office of the Village Register of Deeds.

## **ZN 4.03 RESIDENTIAL DISTRICTS.**

### **(1) R-1 RURAL RESIDENTIAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The R-1 Rural Residential District is intended to provide for single-family residential development, in a predominantly rural setting, at densities not to exceed 0.2 dwelling units per developable net acre.
- (b) Principal Uses.
  - 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
  - 2 Essential Services
  - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
  - 4 One (1) single-family dwelling
- (c) Accessory Uses
  - 1 Accessory buildings, such a detached garages, sheds and gazebos, and boathouses
  - 2 Home occupations and professional home offices
  - 3 Small wind energy system

- 4 Solar energy system
  - 5 Swimming pools and spas (see also Section ZN 3.09)
  - 6 Fence (see also Section ZN 3.08)
  - 7 Decks and patios (see also Section ZN 3.15)
- (d) Conditional Uses (see also Section ZN 5.03(8))
- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons which shall be in conformance with all state statutory requirements
  - 2 Large wind energy system
  - 3 Model single-family homes and related temporary real estate sales office located within the model unit
  - 4 Utility substations
  - 5 Bed and breakfast establishments
- (e) Lot Area and Width.
- 1 Lots shall have a minimum area of five (5) acres
  - 2 All lots shall have a frontage of not less than three hundred (300) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to one hundred fifty (150) feet of frontage provided there is at least three hundred (300) feet of width at the required building setback line
- (f) Building, Height, Area and Design Standards.
- 1 No building or parts of a building shall exceed thirty-five (35) feet in height
  - 2 The total minimum floor area of a dwelling shall be one thousand four hundred (1,400) square feet with a minimum first floor area of one thousand (1,000) square feet
  - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.



(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures
- 4 Rear yard - not less than fifty (50) feet

(h) Authorized Sanitary Sewer System.

- 1 On-site sewage disposal absorption system
- 2 Public sanitary sewer

(2) **R-2 SUBURBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The R-2 Suburban Single-Family Residential District is intended to provide for single-family residential development, at densities not to exceed 1.1 dwelling units per developable net acre, served by on-site soil absorption sanitary sewage systems (septic tanks) and private wells.

(b) Principal Uses.

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
- 2 Essential Services
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
- 4 One (1) single-family dwelling

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Home occupations and professional home offices
- 3 Small wind energy system

- 4 Solar energy system
  - 5 Swimming pools and spas (see also Section ZN 3.09)
  - 6 Fences (see also Section ZN 3.08)
  - 7 Decks and patios (see also Section ZN 3.15)
- (d) Conditional Uses (see also Section ZN 5.03(8)).
- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
  - 2 Model single-family home and related temporary real estate sales office located within the model unit
  - 3 Utility substations
  - 4 Bed and breakfast establishments
- (e) Lot Area and Width
- 1 Lots shall have a minimum area of forty thousand (40,000) square feet
  - 2 All lots shall be not less than one hundred fifty (150) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to seventy-five (75) feet of frontage provided there is at least one hundred fifty (150) feet of width at the required building setback line
- (f) Building, Height, Area and Design Standards.
- 1 No building or parts of a building shall exceed thirty-five (35) feet in height
  - 2 The total minimum floor area of the dwelling shall be one thousand two hundred (1,200) square feet with a minimum first floor area of eight hundred (800) square feet
  - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than thirty (30) feet from the right-of-way of all other roads.
  - 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
  - 3 Side yard - not less than fifteen (15) feet in width on each side of all structures.
  - 4 Rear yard - not less than twenty-five (25) feet.
- (h) Authorized Sanitary Sewer System.
- 1 On-site sewage disposal absorption system
  - 2 Public sewer system
- (3) **R-3 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**
- (a) Primary Purpose and Characteristics. The R-3 Urban Single-Family Residential District is intended to provide for single-family residential development, at densities not to exceed 2.2 dwelling units per developable net acre, served only by public sanitary sewage facilities.
- (b) Principal Uses.
- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
  - 2 Essential Services
  - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
  - 4 One (1) single-family dwelling
- (c) Accessory Uses.
- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
  - 2 Home occupations and professional home offices
  - 3 Small wind energy system
  - 4 Solar energy system
  - 5 Swimming pools and spas (see also Section ZN 3.09)

- 6 Fences (see also Section ZN 3.08)
- 7 Decks and patios (see also Section ZN 3.15)
- (d) Conditional Uses (see also Section 5.03(8)).
  - 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
  - 2 Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit
  - 3 Utility substation
  - 4 Bed and breakfast establishments
- (e) Lot Area and Width.
  - 1 Lots shall have a minimum area of twenty thousand (20,000) square feet
  - 2 All lots shall be not less than one hundred (100) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to fifty (50) feet of frontage provided there is at least one hundred (100) feet of width at the required building setback line
- (f) Building, Height, Area and Design Standards.
  - 1 No building or parts of a building shall exceed thirty-five (35) feet in height
  - 2 The total minimum floor area of a dwelling shall be one thousand two hundred (1,200) square feet with a minimum first floor area of eight hundred (800) square feet
  - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g) Yards.
  - 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than thirty (30) feet from the right-of-way of all other roads

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
  - 3 Side yard - not less than ten (10) feet in width on each side of all structures
  - 4 Rear yard - not less than twenty-five (25) feet
- (h) Authorized Sanitary Sewer System.
- 1 Public sanitary sewer
  - 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.2(1)(d) of this Ordinance is fully complied with.
- (4) **R-4 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**
- (a) Primary Purpose and Characteristics. The R-4 Urban Single-Family Residential District is intended to provide for single-family residential development at densities not exceeding 2.9 dwelling units per developable net acre served by public sanitary sewage facilities.
- (b) Principal Uses.
- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements
  - 2 Essential Services
  - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements
  - 4 One (1) single-family dwelling
- (c) Accessory Uses.
- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
  - 2 Home occupations and professional home offices
  - 3 Small wind energy system
  - 4 Solar energy system
  - 5 Swimming pools and spas (see also Section ZN 3.09)
  - 6 Fences (see also Section ZN 3.08)

- 7        Decks and patios (see also Section ZN 3.15)
- (d)    Conditional Uses (see also Section ZN 5.03(8)).
  - 1        Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements
  - 2        Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit.
  - 3        Utility substations
  - 4        Bed and breakfast establishments
- (e)    Lot Area and Width.
  - 1        Lots shall have a minimum of fifteen thousand (15,000) square feet
  - 2        All lots shall be not less than ninety (90) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to forty-five (45) feet of frontage provided there is at least ninety (90) feet of width at the required building setback line
  - 3        Unsewered lots in the shoreland. The minimum lot area shall be twenty thousand (20,000) square feet and the minimum average lot width shall be one hundred (100) feet.
- (f)    Building, Height, Area and Design Standards.
  - 1        No building or parts of a building shall exceed thirty-five (35) feet in height
  - 2        The total minimum floor area of a dwelling shall be one thousand two hundred (1,200) square feet with a minimum first floor area of eight hundred (800) square feet
  - 3        All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g)    Yards.
  - 1        Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than thirty (30) feet from the right-of-way of all other roads.

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
  - 3 Side yard - not less than ten (10) feet in width on each side of all structures.
  - 4 Rear yard - not less than twenty-five (25) feet.
- (h) Authorized Sanitary Sewer System.
- 1 Public sanitary sewer
  - 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.02(1)(d) of this Ordinance is fully complied with.
- (5) **R-4.5 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**
- (a) Primary Purpose and Characteristics. The R-4.5 Urban Single-Family Residential District is intended to provide for single-family residential development, at densities not exceeding 3.4 dwelling units per developable net acre, served by public sanitary sewage facilities.
- (b) Principal Uses.
- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
  - 2 Essential Services.
  - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
  - 4 One (1) single-family dwelling.
- (c) Accessory Uses.
- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
  - 2 Home occupations and professional home offices.
  - 3 Swimming pools and spas (see also Section ZN 3.09).
  - 4 Fences (see also Section ZN 3.08).
- (d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements having nine (9) but not more than fifteen (15) person and in conformance with all state statutory requirements.
- 2 Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit.
- 3 Utility substations.
- 4 Bed and breakfast establishments.

(e) Lot Area and Width.

- 1 Lots shall have a minimum of twelve thousand (12,000) square feet.
- 2 All lots shall be not less than ninety (90) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to forty-five (45) feet of frontage provided there is at least ninety (90) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The total minimum floor area of a dwelling shall be one thousand four hundred (1,400) square feet with a minimum first floor area of eight hundred (800) square feet with a minimum of fifty (50%) percent masonry exterior.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk Highways and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than ten (10) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.



- (h) Authorized Sanitary Sewer System.
  - 1 Public sanitary sewer.
  - 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.02(1)(d) of this Ordinance is fully complied with.
- (6) **R-5 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**
  - (a) Primary Purpose and Characteristics. The R-5 Urban Single-Family Residential District is intended to provide for single-family residential development, at densities not exceeding 4.4 dwelling units per developable net acre, served by public sanitary sewage facilities.
  - (b) Principal Uses.
    - 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
    - 2 Essential Services.
    - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
    - 4 One (1) single-family dwelling.
  - (c) Accessory Uses.
    - 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
    - 2 Home occupations and professional home offices.
    - 3 Small wind energy system.
    - 4 Solar energy system.
    - 5 Swimming pools and spas (see also Section ZN 3.09).
    - 6 Fences (see also Section ZN 3.08).
    - 7 Decks and patios (see also Section ZN 3.15).
  - (d) Conditional Uses (see also Section ZN 5.03(8)).
    - 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements.

2 Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit.

3 Utility substations.

(e) Lot Area and Width.

1 Lots shall have a minimum of ten thousand (10,000) square feet.

2 All lots shall be not less than seventy-five (75) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to forty (40) feet of frontage provided there is at least seventy-five (75) feet of width at the required building setback line.

3 Unsewered lots in the shoreland. The minimum lot area shall be twenty thousand (20,000) square feet and the minimum average lot width shall be one hundred (100) feet.

(f) Building, Height, Area and Design Standards.

1 No building or parts of a building shall exceed thirty-five (35) feet in height.

2 The total minimum floor area of a dwelling shall be one thousand (1,000) square feet with a minimum first floor area of eight hundred (800) square feet.

3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards

1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.

2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.

3 Side yard - not less than ten (10) feet in width on each side of all structures.

4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.02(1)(d) of this Ordinance is fully complied with.

(7) **R-6 URBAN SINGLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The R-6 Urban Single-Family Residential District is intended to accommodate existing single-family development where densities may reach 7.3 dwelling units per developable net acre in order that residences in these districts shall not be rendered non-conforming uses. The district further provides for new development to fill in voids in existing small lot subdivisions. All R-6 residential development should preferably be served by public sanitary sewage systems. Any additional lands or new subdivisions shall be considered for rezoning into this district only if the parcel in question abuts a city of the second class and furthermore abuts a residential subdivision located within the city of the second class and only if the individual parcels in the aforementioned subdivision are six thousand (6,000) square feet per unit or less and served by public sanitary sewer.

(b) Principal Uses.

- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
- 2 Essential Services.
- 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
- 4 One (1) single-family dwelling.

(c) Accessory Uses.

- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
- 2 Home occupations and professional home offices.
- 3 Small wind energy system.
- 4 Solar energy system.
- 5 Swimming pools and spas (see also Section ZN 3.09).
- 6 Fences (see also Section ZN 3.08).

- 7 Decks and patios (see also Section ZN 3.15).
- (d) Conditional Uses (see also Section ZN 5.03(8)).
- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements.
  - 2 Utility substations.
- (e) Lot Area and Width
- 1 Lots shall have a minimum area of six thousand (6,000) square feet
  - 2 All lots shall be not less than sixty (60) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to thirty (30) feet of frontage provided there is at least sixty (60) feet of width at the required building setback line.
  - 3 Unsewered lots in the shoreland. The minimum lot area shall be twenty thousand (20,000) square feet and the minimum average lot width shall be one hundred (100) feet.
  - 4 Sewered lots in the shoreland. The minimum lot area shall be ten thousand (10,000) square feet and the minimum average lot width shall be sixty-five (65) feet.
- (f) Building, Height, Area and Design Standards.
- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
  - 2 The total minimum floor area of a dwelling shall be eight hundred (800) square feet with a minimum first floor area of eight hundred (800) square feet.
  - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g) Yards.
- 1 Street yard - not less than thirty (30) feet from the right-of-way of all Federal, State Trunk, or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
  - 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.

- 3 Side yard - not less than eight (8) feet in width on each side of all structures.
  - 4 Rear yard - not less than twenty-five (25) feet.
- (h) Authorized Sanitary Sewer System.
- 1 On-site sewage disposal absorption system only for lots of record existing at the time of adoption of this Ordinance
  - 2 Public sanitary sewer
- (8) **R-7 SUBURBAN TWO-FAMILY AND THREE-FAMILY RESIDENTIAL DISTRICT.**
- (a) Primary Purpose and Characteristics. The R-7 Suburban Two-Family and Three-Family Residential District is intended to provide for two-family and three-family residential development in areas where public sanitary sewage facilities are not available, and densities do not exceed 1.1 dwelling units per developable net acre for two-family development and 1.3 dwelling units per net acre for three-family development.
- (b) Principal Uses.
- 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
  - 2 Essential Services.
  - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
  - 4 One (1) two-family dwelling or one (1) three-family dwelling.
- (c) Accessory Uses.
- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
  - 2 Home occupations and professional home offices.
  - 3 Small wind energy system.
  - 4 Solar energy system.
  - 5 Swimming pools and spas (see also Section ZN 3.09).
  - 6 Fences (see also Section ZN 3.08).
  - 7 Decks and patios (see also Section 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements.
- 2 Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.
- 3 Utility substations.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of eighty thousand (80,000) square feet for a two-family dwelling, and a minimum area of one hundred thousand (100,000) square feet for a three-family home.
- 2 All lots shall be not less than one hundred fifty (150) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to seventy-five (75) feet of frontage provided there is at least one hundred fifty (150) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The total minimum floor area of a two-family residential structure shall be two thousand (2,000) square feet or one thousand (1,000) square feet per unit. The minimum first floor area of the structure shall be one thousand five hundred (1,500) square feet.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty (20) feet in width on each side of all structures

- 4 Rear yard - not less than twenty-five (25) feet.
- (h) Authorized Sanitary Sewer System.
  - 1 On-site sewage disposal absorption system.
- (9) **R-8 URBAN TWO-FAMILY RESIDENTIAL DISTRICT.**
- (a) The R-8 Urban Two-Family Residential District is intended to provide for two-family residential development at densities not to exceed 4.4 dwelling units per developable net acre served by public sanitary sewage facilities.
- (b) Principal Uses.
  - 1 Community living arrangements having a capacity of eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
  - 2 Essential services.
  - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
  - 4 One (1) two-family dwelling.
- (c) Accessory Uses.
  - 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
  - 2 Home occupations and professional home offices.
  - 3 Small wind energy system.
  - 4 Solar energy system.
  - 5 Swimming pools and spas (see also Section ZN 3.09).
  - 6 Fences (see also Section ZN 3.08).
  - 7 Decks and patios (see also Section ZN 3.15).
- (d) Conditional Uses (see also Section ZN 5.03(8)).
  - 1 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements.

- 2 Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit.
  - 3 Utility substations.
- (e) Lot Area and Width.
- 1 Lots shall have a minimum area of twenty thousand (20,000) square feet; and
  - 2 All lots shall be not less than one hundred (100) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to fifty (50) feet of frontage provided there is at least one hundred (100) feet of width at the required building setback line.
- (f) Building, Height, Area and Design Standards.
- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
  - 2 The total minimum floor area of a two-family residential structure shall be two thousand (2,000) square feet or one thousand (1,000) square feet per unit. The minimum first floor area of the structure shall be one thousand five hundred (1,500) square feet.
  - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g) Yards.
- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than thirty (30) feet from the right-of-way of all other roads.
  - 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
  - 3 Side yard - not less than ten (10) feet in width on each side of all structures.
  - 4 Rear yard - not less than twenty-five (25) feet.
- (h) Authorized Sanitary Sewer System.
- 1 Public sanitary sewer



(10) **R-9 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The R-9 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 8.7 dwelling units per developable net acre, served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).
- (b) Principal Uses.
  - 1 Community living arrangements having a capacity of fifteen (15) or fewer persons and which shall be in conformance with all state statutory requirements.
  - 2 Essential services.
  - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
- (c) Accessory Uses.
  - 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
  - 2 Small wind energy system.
  - 3 Solar energy system.
  - 4 Swimming pools and spas (see also Section ZN 3.09).
  - 5 Fences (see also Section ZN 3.08).
  - 6 Decks and patios (see also Section ZN 3.15).
- (d) Conditional Uses (see also Section ZN 5.03(8)).
  - 1 Community living arrangements for sixteen (16) or more persons and which are in conformance with all state statutory requirements.
  - 2 Model apartments and model condominiums and related temporary real estate sales office located within the model unit.
  - 3 Multiple family dwellings not to exceed eight (8) units per structure with densities not to exceed 8.7 units per net acre served by public sanitary sewage facilities.
  - 4 Utility substations.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of the larger of ten thousand (10,000) square feet or five thousand (5,000) square feet per unit.
- 2 All lots shall have a minimum width of one hundred (100) feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to fifty (50) feet of frontage provided there is at least one hundred (100) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height
- 2 The minimum total floor area of a multiple-family residential structure shall be one thousand five hundred (1,500) square feet, and the minimum first floor area of a multiple-family structure shall be one thousand (1,000) square feet. In addition thereto:
  - a efficiency or one (1) bedroom apartments shall have a minimum floor area per dwelling unit of five hundred (500) square feet
  - b two (2) bedroom apartments shall have a minimum floor area per dwelling unit of seven hundred fifty (750) square feet, and
  - c three (3) or more bedroom apartments shall have a minimum floor area per dwelling unit of one thousand (1,000) square feet.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer System.

1 Public Sanitary Sewer.

(11) **R-10 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**

(a) Primary Purpose and Characteristics. The R-10 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 10.8 dwelling units per developable net acre served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

(b) Principal Uses.

1 Community living arrangements having a capacity of fifteen (15) or fewer persons and which shall be in conformance with all state statutory requirements.

2 Essential services.

3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.

(c) Accessory Uses.

1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses

2 Small wind energy system.

3 Solar energy system.

4 Swimming pools and spas (see also Section ZN 3.09).

5 Fences (see also Section ZN 3.08).

6 Decks and patios (see also Section ZN 3.15).

(d) Conditional Uses (see also Section ZN 5.03(8)).

1 Community living arrangements for sixteen (16) or more persons and which are in conformance with all state statutory requirements.

2 Multiple-family dwellings not to exceed eight (8) units per structure.

3 Model apartments and model condominiums and related temporary real estate sales office located within the model unit.

4 Utility substations.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of twelve thousand (12,000) square feet or four thousand (4,000) square feet per unit, whichever is larger; and
- 2 All lots shall have a minimum width of one hundred twenty (120) feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to sixty (60) feet of frontage provided there is at least one hundred twenty (120) feet of width at the required building setback line.

(f) Building, Height, Area and Design Standards.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 The minimum total floor area of a multiple-family residential structure shall be two thousand (2,000) square feet, and in addition thereto:
  - a the minimum floor area per dwelling unit for an efficiency or one (1) bedroom apartment shall be four hundred (400) square feet;
  - b the minimum floor area per dwelling unit of a two (2) bedroom apartment shall be six hundred (600) square feet;
  - c and the minimum floor area per dwelling unit of a three (3) or more bedroom apartment shall be eight hundred (800) square feet.
- 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than five-twelfths (5/12), and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures.

- 4 Rear yard - not less than twenty-five (25) feet.
- (h) Authorized Sanitary Sewer System.
  - 1 Public Sanitary Sewer.
- (12) **R-11 MULTIPLE-FAMILY RESIDENTIAL DISTRICT.**
  - (a) Primary Purpose and Characteristics. The R-11 Multiple-Family Residential District is intended to provide for multiple-family residential development, at densities not to exceed 12.4 dwelling units per developable net acre, served by public sanitary sewage facilities. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).
  - (b) Principal Uses.
    - 1 Community living arrangements having a capacity of fifteen (15) or fewer persons and which shall be in conformance with all state statutory requirements.
    - 2 Essential services.
    - 3 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
  - (c) Accessory Uses.
    - 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
    - 2 Small wind energy system.
    - 3 Solar energy system.
    - 4 Swimming pools and spas (see also Section ZN 3.09).
    - 5 Fences (see also Section ZN 3.08).
    - 6 Decks and patios (see also Section ZN 3.15).
  - (d) Conditional Uses (see also Section ZN 5.03(8)).
    - 1 Community living arrangements for sixteen (16) or more persons and which are in conformance with all state statutory requirements.
    - 2 Multiple-family dwellings.

- 3 Three (3) Housing for the elderly.
  - 4 Model apartments and model condominiums and related temporary real estate sales office located within the model unit.
  - 5 Utility substations.
- (e) Lot Area and Width.
- 1 Lots shall have a minimum area of twenty thousand (20,000) square feet or three thousand (3,000) square feet per unit, whichever is larger; and
  - 2 Lots shall have a minimum width of one hundred twenty (120) feet unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to sixty (60) feet of frontage provided there is at least one hundred twenty (120) feet of width at the required building setback line.
- (f) Building, Height, Area and Design Standards.
- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
  - 2 The minimum total floor area of a multiple-family residential structure shall be three thousand (3,000) square feet, and in addition thereto:
    - a the minimum floor area per dwelling unit for an efficiency or one (1) bedroom apartment shall be three hundred (300) square feet;
    - b the minimum floor area per dwelling unit of a two (2) bedroom apartment shall be five hundred (500) square feet;
    - c and the minimum floor area per dwelling unit for a three (3) or more bedroom apartment shall be six hundred (600) square feet.
  - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g) Yards.
- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State, and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
  - 3 Side yard - not less than fifteen (15) feet in width on each side of all structures.
  - 4 Rear yard - not less than twenty-five (25) feet.
- (h) Authorized Sanitary Sewer System.
- 1 Public sanitary sewer.
- (13) **R-12 MOBILE HOME/MANUFACTURED HOME PARK/SUBDIVISION RESIDENTIAL DISTRICT.**
- (a) Primary Purpose and Characteristics. The R-12 Mobile Home/Manufactured Home Park/Subdivision Residential District is intended to provide for the location of mobile home/manufactured home parks and mobile home/manufactured home subdivisions in the residential setting that is compatible with adjacent land uses. Mobile homes are declared herein to be residential dwellings and entitled to the same protection from incompatible uses as is afforded in other residential districts. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).
- (b) Principal Uses.
- 1 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and are in conformance with all state statutory requirements.
  - 2 Essential services.
  - 3 One (1) individual mobile home or manufactured home on a lot in a mobile home park or subdivision.
- (c) Accessory Uses
- 1 Accessory buildings, such as detached garages, sheds and gazebos, and boathouses
  - 2 Small wind energy system.
  - 3 Solar energy system.
  - 4 Swimming pools and spas (see also Section ZN 3.09).
  - 5 Fences (see also Section ZN 3.08).
  - 6 Decks and patios (see also Section ZN 3.15).

- (d) Conditional Uses (see also Section ZN 5.03(8)).
- 1 Mobile home/manufactured home parks/subdivisions.
  - 2 Model mobile home/manufactured home and related temporary real estate sales office located within the model unit.
  - 3 Utility substations.
- (e) Lot Area and Width.
- 1 Lots in a mobile home/manufactured home park or subdivision shall have a minimum of seven thousand five hundred (7,500) square feet in area.
  - 2 All lots shall be not less than fifty (50) feet in width unless located on a cul-de-sac or curve in which case the lot frontage may be reduced to thirty (30) feet of frontage provided there is at least fifty (50) feet of width at the required building setback line.
- (f) Building Height and Area.
- 1 No building or parts of a building shall exceed fifteen (15) feet in height.
  - 2 The minimum floor area shall be six hundred (600) square feet.
- (g) Yards.
- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk, and Village Trunk highways; and not less than forty (40) feet from the right-of-way of all other roads.
  - 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
  - 3 Side yard - not less than ten (10) feet in width on each side of all structures.
  - 4 Rear yard - not less than ten (10) feet.
- (h) Authorized Sanitary Sewer System.
- 1 Public sanitary sewer.
  - 2 On-site sewage disposal absorption system on lots of record created prior to adoption or amendment of this Ordinance, provided that Section ZN 2.02(1)(d) of this Ordinance is fully complied with.



## **ZN 4.04 BUSINESS DISTRICTS.**

### **(1) B-1 NEIGHBORHOOD BUSINESS DISTRICT.**

- (a) **Primary Purpose and Characteristics.** The B-1 Neighborhood Business District is intended to provide for existing and proposed retail establishments that are located within primarily residential areas and intended to serve the convenience needs of the surrounding neighborhood. To insure that such uses shall have a character, appearance, and operation compatible with the residential areas they serve, the size of such individual establishment shall be limited. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

### **(b) Principal Uses.**

- 1 Bakeries.
- 2 Barber shops, beauty shops and salons.
- 3 Bicycle shops.
- 4 Bookstores.
- 5 Cafe/Coffee shops.
- 6 Computer sales and repair shops.
- 7 Bars/Taverns and wine taps (without outdoor dining entertainment or recreation—i.e. volleyball, horseshoes, etc.).
- 8 Drug stores.
- 9 Dry cleaning and laundry establishments.
- 10 Flower shops.
- 11 Grocery stores and convenience stores.

- 12 Hardware stores.
- 13 Hobby, toy and game shops.
- 14 Liquor stores.
- 15 Professional offices.
- 16 Record and pre-recorded tape stores.
- 17 Restaurants (not including fast food and drive-ins).
- 18 Shoe repair stores.
- 19 Variety stores.

(c) Accessory Uses.

- 1 Garages for the storage of vehicles used in conjunction with the operation of the business.
- 2 Off-street parking and loading.
- 3 Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- 4 Small wind energy system.
- 5 Solar energy systems.

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Flea Markets.
- 2 Fueling stations.
- 3 Utility substations.

(e) Lot Area and Width.

- 1 Individual businesses served by public sanitary sewage facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum lot frontage of seventy-five (75) feet in width.

- 2 Individual businesses served by on-site soil absorption sewage disposal systems or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum lot frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 Buildings which are individual retail stores shall not exceed two thousand five (2,500) square feet in area and customer service establishments or offices shall not exceed one thousand five hundred (1,500) square feet in area

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(2) **B-2 COMMUNITY BUSINESS DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-2 Community Business District is intended to provide for the orderly development of business activities, such as retail stores, office buildings and services in the Village. These "downtown" areas should be developed in a manner that would contribute to their role as the center of the community. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following

list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Any principal use permitted in the B-1 Neighborhood Business District.
- 2 Antique and second hand stores (excluding pawnshops).
- 3 Appliance and furniture stores without related warehousing.
- 4 Automotive and marine supply stores.
- 5 Bowling alleys.
- 6 Building supply stores.
- 7 Cafe/Coffee shops.
- 8 Camera and photographic supply stores.
- 9 Carpet and flooring stores.
- 10 Caterers.
- 11 Christmas tree sales.
- 12 Civic, social and fraternal associations.
- 13 Clinics.
- 14 Clothing, apparel and footwear stores.
- 15 Commercial recreational facilities (indoor) such as bowling alleys, skating rinks, athletic clubs, tennis and handball courts, swimming pools.
- 16 Delicatessens.
- 17 Department stores.
- 18 Essential services.
- 19 Financial institutions.

- 20 Funeral homes
- 21 Gift stores
- 22 Hotels and motels.
- 23 Jewelry stores.
- 24 Limited Adult Media Stores, as provided in Section ZN 4.04(6).
- 25 Meat and fish markets.
- 26 Music stores.
- 27 Nightclubs and dance halls.
- 28 Office supply stores.
- 29 Optical stores.
- 30 Paint, glass and wallpaper stores.
- 31 Parking lots (off-site).
- 32 Personal service establishments.
- 33 Pet shops.
- 34 Photocopying and duplicating services.
- 35 Physical fitness facilities.
- 36 Racquet ball and tennis courts (indoor).
- 37 Radio-T.V. broadcast studios.
- 38 Restaurants, including fast food and drive-in restaurants and associated micro-brewery.
- 39 Sign and banner shops.
- 40 Sporting goods stores.
- 41 Supermarkets.
- 42 Theaters.

- 43 Tobacco shops.
- 44 Upholstery shops.
- (c) Accessory Uses.
  - 1 Garages for storage of vehicles used in conjunction with the operation of the business.
  - 2 Off-street parking and loading areas.
  - 3 Residential quarters for the owner or proprietor, or rental apartments on a non-ground floor level, provided that there shall be a minimum floor area of three hundred (300) square feet for an efficiency or one (1) bedroom apartment, five hundred (500) square feet for a two (2) bedroom or larger apartment. There shall be no more than two (2) rental apartments per parcel above a B-2 district store or office.
  - 4 Small wind energy system.
  - 5 Solar energy systems.
- (d) Conditional Uses (see also Section ZN 5.03(8)).
  - 1 Animal hospitals, shelters and kennels and veterinary services.
  - 2 Automotive sales, service, and mechanical repairs.
  - 3 Boat launches.
  - 4 Bus depots.
  - 5 Car washes.
  - 6 Commercial recreational facilities (outdoor).
  - 7 Flea Markets.
  - 8 Fueling stations.
  - 9 Railroad depots.
  - 10 Restaurants, bars or taverns with outdoor dining, recreation, entertainment (i.e., volleyball, horseshoes, etc.).
  - 11 Tattoo and body piercing establishments.
  - 12 Utility substations.

(e) Lot Area and Width.

- 1 Individual businesses served by public sanitary sewage facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum frontage of seventy-five (75) feet in width.
- 2 Individual businesses served by on-site soil absorption sewage disposal system or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum frontage of one hundred fifty (150) feet in width.

(f) Building Height.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height, and
- 2 No maximum or minimum building area shall be required in the B-2 District due to the variety of uses within the District and the diverse building demands of each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard – not less than ten (10) feet in width on each side of all structures
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site soil absorption disposal system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(3) **B-3 HIGHWAY BUSINESS DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-3 Highway Business District is intended to provide for the orderly and attractive grouping and appropriate business location along principal highway routes as defined in this Ordinance of those businesses and customer services which

are logically related to and dependent upon highway traffic and which are specifically designed to serve the needs of such traffic and businesses which generate a high volume of vehicle traffic with a corresponding demand for large parking areas. The uses intended for this District typically do not rely upon an interchange of customers with each other as do uses in the B-4 District and furthermore tend to locate in strip fashion along the highway thereby impeding traffic flow thereon with numerous access points and therefore requiring review of plans and specifications to regulate highway access and to encourage properly planned site layout and development for such individual businesses. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Any principal use permitted in the B-1 Neighborhood Business District, B-2 Community Business District or B-4 Planned Business District.
- 2 Adult establishments, as provided in Section ZN 4.04(6).
- 3 Appliance and furniture stores with related warehousing.
- 4 Garden supply stores.
- 5 Gunsmith shop.

(c) Accessory Uses.

- 1 Garages for the storage of vehicles used in conjunction with the operation of the business.
- 2 Off-street parking and loading.
- 3 Residential quarters for the owner, proprietor, commercial tenant, employee or caretaker located in the same building as the business.
- 4 Small wind energy system.
- 5 Solar energy systems.



(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Arenas and stadiums.
- 2 Automotive body repair.
- 3 Automotive and marine sales, service and repairs including related towing
- 4 Car washes.
- 5 Concrete and asphalt batch plants temporarily located on a parcel.
- 6 Convenient cash businesses.
- 7 Drive-in theater.
- 8 Flea markets.
- 9 Fueling stations.
- 10 Indoor shooting ranges.
- 11 Large wind energy systems.
- 12 Pawnshops.
- 13 Recreational vehicle, motor home, farm implement or similar large size vehicle or equipment sales involving extensive outdoor display and storage.
- 14 Restaurants, bars or taverns with outdoor dining, entertainment or recreation (i.e., volleyball, horseshoes, etc.).
- 15 Self-storage facilities.
- 16 Tattoo and body piercing establishments.
- 17 Truck stops, sales and service.
- 18 Utility substations.

(e) Lot Area and Width.

- 1 Individual businesses served by either public sanitary sewage facilities or on-site soil absorption sewage disposal systems or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum lot frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 No maximum or minimum building area shall be required in the B-3 District due to the variety of uses within the District and the diverse building demands on each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(4) **B-4 PLANNED BUSINESS DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-4 Planned Business District is intended to provide for the orderly and attractive grouping at appropriate locations of retail stores, shops, offices, and customer service establishments in a "shopping center" or "mall" setting on a single parcel of land and intended to serve the larger community or regional area. The size and location of such districts shall be based upon evidence of justifiable community need, of adequate customer potential, of satisfactory relationship to the circulation system and other related facilities, and of potential contribution to the economic welfare of the community. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to

list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

- (b) Principal Uses. Any principal use allowed in the B-1 Neighborhood Business District, B-2 Community Business District or B-3 Highway Business District.
- (c) Accessory Uses.
  - 1 Garages for storage of vehicles used in conjunction with the operation of the business.
  - 2 Off-street parking and loading areas.
  - 3 Small wind energy system.
  - 4 Solar energy system.
- (d) Conditional Uses (see also Section ZN 5.03(8)).
  - 1 Flea Markets.
  - 2 Fueling stations.
  - 3 Large wind energy systems.
  - 4 Utility substations.
- (e) Lot Area and Width.
  - 1 Groupings of shops and businesses in the B-4 Business District shall provide a minimum area of two (2) acres and a minimum frontage of two hundred (200) feet in width.
  - 2 Individual shops within a grouping shall provide an area sufficient to accommodate the principal and all accessory structures, off-street parking and loading areas, the disposal of sanitary waste if a public sanitary sewage system is not available and the required yards.
- (f) Building Height and Area.
  - 1 No building or parts of a building shall exceed sixty (60) feet in height.
  - 2 No maximum or minimum building area shall be required in the B-4 District due to the variety of uses within the District and the diverse building demands of each user.
- (g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not closer than forty-five (45) feet to any other lot line.
- 4 Rear yard - not closer than forty-five (45) feet to any other lot line.

(h) Authorized Sanitary Sewer System.

- 1 Public sanitary sewer.
- 2 On-site sewage disposal absorption system.
- 3 Holding tanks on lots of record created prior to July 1, 1980.

(5) **B-5 WHOLESALE TRADE AND WAREHOUSING DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-5 Wholesale Trade and Warehousing District is intended to provide for the orderly and attractive grouping at appropriate locations of commercial activities of a wholesale nature, bulk sales, and for the storage of goods and wares. The size and location of such districts shall be based upon relationships to the total community need and economy. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Wholesale and bulk sales, and warehousing of the following products, provided that no outdoor storage is permitted:
  - a Air conditioning, refrigerated equipment, and supplies.
  - b Apparel, footwear and accessories.
  - c Appliances, furniture and home furnishings.

- d      Automobile equipment.
- e      Beer, wine, and distilled alcoholic beverages.
- f      Commercial and industrial machinery, equipment, and supplies.
- g      Confectionery.
- h      Drugs and pharmaceuticals.
- l      Electronics.
- j      Food and groceries (dairy products, fish and seafood, fruit and vegetables, meat and meat products not including slaughtering and outdoor confinement).
- k      Hardware.
- l      Household goods.
- m      Lumber and construction materials.
- n      Metals and minerals.
- o      Paint and varnishes.
- p      Paper and paper products.
- q      Plumbing and heating equipment and supplies.
- r      Professional equipment and supplies.
- s      Service establishment equipment and supplies.
- t      Textiles and fabrics.
- u      Tires and tubes.
- v      Tobacco and tobacco products.
- w      Transportation equipment and supplies.
- 2      Mail order distribution centers.
- 3      Printing and publishing houses.
- 4      Refrigerated warehousing.

(c) Accessory Uses.

- 1 Garages for storage of vehicles used in conjunction with the operation of a business.
- 2 Off-street parking and loading.
- 3 Office areas customary to the operation of the business.
- 4 Small wind energy system.
- 5 Solar energy system.

(d) Conditional Uses (See also Section ZN 5.03(8)).

- 1 Animal hospitals, shelters, veterinary services, and kennels accessory to a veterinarian or animal hospital.
- 2 Automotive sales, service and repairs including related towing.
- 3 Construction services including building contractors; carpentering; wood flooring; concrete services; landscaping, lawn care, tree trimming and plowing services; masonry, stonework, tile setting and plastering services; roofing, siding and sheet metal services; septic tank installers; window installers; and water well drilling services.
- 4 Freight terminals, yards, freight forwarding services, packing and crating services and related equipment storage and maintenance facilities.
- 5 Fuel oil, bottled gas, and ice dealers.
- 6 Fueling stations, automobile servicing and repair.
- 7 Indoor shooting ranges.
- 8 Laboratories for testing, research, and experimental purposes.
- 9 Large wind energy system.
- 10 Millwork, lumber yards, saw mills, and planing mills.
- 11 Petroleum stations and terminals.
- 12 Self-storage facilities.
- 13 Water storage tanks and towers, radio and television transmitting and receiving towers, and microwave relay stations.

(e) Lot Area and Width.

- 1 Individual wholesale and warehousing establishments served by public sanitary sewer facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum frontage of seventy-five (75) feet in width.
- 2 Individual wholesale and warehousing establishments served by on-site soil absorption sewage disposal systems or other approved private means of sewage disposal shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building and parts of a building shall exceed thirty-five (35) feet in height.
- 2 No maximum or minimum building area shall be required in the B-5 District due to the variety of uses within the District and the diverse building demands of each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk, or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not closer than twenty-five (25) feet to any other lot line.
- 4 Rear yard - not closer than twenty-five (25) feet to any other lot line.

(6) **ADULT ESTABLISHMENTS.**

- (a) Intent. Mindful of the fact that it is the intent of this Ordinance to protect the health, safety and morals of the citizens of the Village of Somers and to further preserve the quality of family life and to preserve the rural and urban characteristics of its neighborhoods in the Village and prevent adverse and deleterious effects contributing to the blight and downgrading of neighborhoods, and also mindful of the effects of adult entertainment upon minors and the violation of civil rights of many persons partaking in such entertainment, and also mindful of the criminal activity and disruption of public peace associated with such establishments, and also mindful of the unsanitary and unhealthful conditions associated with such establishments, it is the intent of this section to regulate the location and certain characteristics of such establishments. An adult establishment lawfully operating as a conforming use is not rendered a non-conforming use by the location, subsequent to the grant of the adult establishment permit,

if a sensitive land use is located within one thousand (1,000) feet of the adult establishment. By the enactment of this Ordinance, the Village Board of Trustees does not intend to give any explicit, implicit or tacit approval or condone any activity relating to adult entertainment.

(b) Definitions. For the purpose of this section:

- 1 Adult Bath House. An establishment or business which provides the services of baths of any kind, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner, professional physical therapist, or massage therapist licensed or registered by the State of Wisconsin, and which establishment provides to its patrons an opportunity to engage in "specified sexual activities" or to observe employees or independent contractors exhibiting "specified sexual activities" or "specified anatomical areas."
- 2 Adult Body Painting Studio. An establishment or business wherein patrons are afforded an opportunity to paint images on the body of a person who is exhibiting "specified sexual activities" or "specified anatomical areas." For purposes of this Ordinance, the adult body painting studio shall not be deemed to include a tattoo parlor.
- 3 Adult Cabaret. An establishment or business which regularly or on a frequently recurring basis features live entertainment that is distinguished or characterized by an emphasis on the exhibiting of "specified anatomical areas" or "specified sexual activities" for observation by patrons therein, or which holds itself out or identifies itself to the public by its name, its signs and/or its advertising as an establishment where such live entertainment is regularly or on a frequently recurring basis available, including, without limitation, by verbal or pictorial allusions to sexual stimulation or gratification or by references to "adult entertainment," "strippers," "showgirls," "exotic dancers," "gentleman's club," or similar terms.
- 4 Adult Entertainment Establishment. Is defined to include adult cabarets, adult modeling studios, and adult motion picture theaters.
- 5 Adult Establishments. Is defined to include adult entertainment establishments and adult retail establishments as defined herein.
- 6 Adult Massage Parlor. An establishment or business with or without sleeping accommodations which provides the services of massage and body manipulation, including, without limitation, exercises, heat and light treatments of the body, and all forms and methods of physiotherapy, not operated by a medical practitioner, professional physical therapist, or massage therapist licensed or registered by the State of Wisconsin and which establishment provides to its patrons an opportunity to engage in "specified sexual activities" or to engage in any method of rubbing, pressing, striking, kneading, tapping, pounding, vibrating or stimulating a "specified anatomical area" with the hands or with any instruments, or the opportunity to observe employees or independent contractors exhibiting "specified sexual activities" or "specified anatomical areas."



- 7 Adult Media. Books, magazines, videotapes, movies, slides, CD-ROMs, posters, or other devices to display images, that are distinguished or characterized by their emphasis on matters depicting, describing or relating to "specified sexual activities" or "specified anatomical areas".
- 8 Adult Media Store. An establishment or business that rents and/or sells adult media and that meets any of the following three tests:
- a forty (40%) percent or more of the gross public floor area is devoted to adult media.
  - b forty (40%) percent or more of the stock-in-trade consists of adult media.
  - c The store advertises or holds itself out in any forum as a sexually oriented business
- 9 Adult Modeling Studio. An establishment or business which provides the services of live models modeling lingerie or transparent apparel to patrons or a business where a person who displays "specified anatomical areas" and is provided to be observed, sketched, drawn, painted, sculptured, photographed, or similarly depicted by other persons who pay money or any form of consideration. Adult modeling studios shall not include a proprietary school licensed by the State of Wisconsin or a college, technical college, or university; or in a structure:
- a that has no sign visible from the exterior of the structure and no other advertising that indicates a nude or semi-nude person is available for viewing; and
  - b where, in order to participate in a class, a student must enroll at least three (3) days in advance of the class; and
  - c where no more than one (1) nude or semi-nude model is on the premises at any one time.
- 10 Adult Motion Picture Theater. An establishment or business located in an enclosed building and emphasizing or predominantly showing movies distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas" for observation by patrons therein.
- 11 Adult Motion Picture Theater (Outdoor). An establishment located on a parcel of land and emphasizing or predominantly showing movies out of doors for observation by patrons, which movies are distinguished or characterized by an emphasis on "specified sexual activities" or "specified anatomical areas".
- 12 Adult Novelty Shop. An establishment or business offering goods for sale or rent and that meets any of the following tests:

- a The establishment offers for sale items from any two (2) of the following categories: (a) adult media, (b) lingerie, or (c) leather goods, marketed or presented in a context to suggest their use for flagellation or torture of a person clothed or naked, or the binding or other physical restraint of a person clothed or naked.
  - b More than five (5%) percent of its stock in trade consists of instruments, devices, or paraphernalia either designed as representation of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.
  - c More than five (5%) percent of its gross public floor area is devoted to the display of instruments, devices, or paraphernalia either designed as representation of human genital organs or female breasts, or designed or marketed primarily for use to stimulate human genital organs.
- 13 Adult Retail Establishments. "Adult Retail Establishments" is defined to include adult media stores, limited adult media stores, and adult novelty shops.
- 14 Gross Public Floor Area. The total area of the building accessible or visible to the public, including showrooms, motion picture theaters, motion picture arcades, service areas, behind-counter areas, storage areas visible from such other areas, restrooms (whether or not labeled "public"), areas used for cabaret or similar shows (including stage areas), plus aisles, hallways, and entryways serving such areas.
- 15 Limited Adult Media Store. An establishment that rents and/or sells adult media but is not an "adult media store" as defined in this Section, and that meets either of the following tests:
  - a More than ten (10%) percent but less than forty (40%) percent of the gross public floor area is devoted to adult media
  - b More than ten (10%) percent but less than forty (40%) percent of the stock-in-trade consists of adult media
- 16 "Sensitive land-use" is defined to include any and all of the following:
  - a Property zoned or used for residential purposes
  - b Property zoned or used for religious institutional purposes
  - c An educational institution for students in twelfth grade or below
  - d A library or museum
  - e A public or private park, recreation area, or playground

- f A day care center
  - g A historic district
  - h A facility predominantly serving individuals with a "developmental disability," as that term is defined in §51.01(5)(a) and (b), Wis. Stats., and subsequent amendments thereto.
  - i A private youth development organization such as but not limited to YMCA, Junior Achievement, Boys Club of America and Campfire Girls.
- 17 "Sex toy" means an instrument, device, or paraphernalia either designed as a representation of human genital organs or female breast, or designed or marketed primarily for use to stimulate human genital organs.
- 18 "Specified sexual activities" is defined as actual or simulated:
- a Exhibition of genitals in a state of sexual stimulation or arousal;
  - b Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sado-masochistic abuse, fellatio or cunnilingus;
  - c Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.
- 19 "Specified anatomical areas" is defined as:
- a Less than completely and opaquely covered:
    - 1) Human genitals, pubic region;
    - 2) Buttock, anus, anal cleft;
    - 3) Female breast below a point immediately above the top of the areola; and
  - b Human male genitals in a discernibly turgid state even if completely and opaquely covered.
- 20 Video-viewing booth. Any booth, cubicle, stall, or compartment that is designed, constructed, or used to hold or seat patrons and is used for presenting adult media for observation by patrons therein. A video viewing booth shall not mean a theater, movie house, playhouse, or a room or enclosure or portion thereof that contains six hundred (600) square feet or more.
- (c) Principal Uses.

- 1 Where the underlying zoning is B-2 Community Business District, Limited Adult Media Stores.
  - 2 Where the underlying zoning is B-3 Highway Business District.
    - a Limited Adult Media Stores.
    - b Adult Cabarets.
    - c Adult Media Stores.
    - d Adult Modeling Studios.
    - e Adult Motion Picture Theaters.
    - f Adult Novelty Shops.
- (d) Prohibited Uses.
- 1 Adult Bath Houses.
  - 2 Adult Body Painting Studios.
  - 3 Adult Massage Parlors.
  - 4 Adult Motion Picture Theaters (Outdoor).
- (e) Accessory Uses. Any accessory use authorized by the underlying zoning district may be an accessory use to an adult establishment. In no case shall an adult establishment be an accessory use to any principal use designated by any section of this Ordinance.
- (f) Underlying District Standards. Adult establishments shall comply with the standards of the zoning districts in which they are located, including standards relating to lot area and width, building height and area, yard requirements and sanitary sewer systems.
- (g) General requirements and restrictions governing adult establishments. Except as provided below, all adult establishments shall comply with the following requirements and restrictions:
- 1 Intoxicating beverages shall not be sold or served.
  - 2 Parking shall be provided in a lighted area, in conformity with applicable lighting and parking standards provided elsewhere in this Ordinance.
  - 3 No adult establishment shall be maintained or operated in any manner that causes, creates, or allows public viewing of any adult media, or any live entertainment that is

distinguished or characterized by an emphasis on “specified sexual activities” or “specified anatomical areas”, from any sidewalk, public or private right-of-way, or any property other than the lot on which the adult establishment is located.

- 4 Signs advertising adult establishments shall conform with Section ZN 3.07(5) of this Ordinance and with the further exception that signs will not depict the human body or any part thereof, and provided further that there shall be no flashing or traveling lights located outside the building.
  - 5 No adult establishment patron shall be permitted at any time to enter into any of the non-public portions of any adult establishment, including specifically, but without limitation, any storage areas or dressing or other rooms provided for the benefit of adult establishment employees. This subsection shall not apply to persons delivering goods and materials, food and beverages, or performing maintenance or repairs to the permitted premises; provided, however, that any such persons shall remain in such non-public areas only for the purposes and to the extent and time necessary to perform their job duties.
  - 6 Other than limited adult media stores, signs at least one (1) square feet in area stipulating that persons under the age of eighteen (18) are not permitted inside the establishment, shall be posted at all public entrances to the establishment, and persons under the age of eighteen (18) shall not be permitted inside the establishment.
  - 7 The cashier’s or manager’s station shall be located so that someone working there can quickly move to physically halt any attempted or accidental entry by a minor. An employee shall occupy the station at all times when patrons are in and on the premises.
  - 8 The adult establishment shall clearly post and enforce a no loitering policy.
  - 9 The owner and/or operator of the adult establishment shall agree to comply with all State, Federal and Local laws and ordinances, including obscenity, liquor and cabaret laws. Solicitation for purposes of prostitution shall be strictly prohibited. Conduct in violation of §944.21, Wis. Stats., including the exhibition of “obscene material” and “obscene performances,” as those terms are defined in §944.21(2), Wis. Stats., shall be strictly prohibited.
  - 10 No video viewing booth(s) shall be established, operated or used in any adult establishment.
  - 11 The hours of operation of adult establishments shall be limited to the same hours of operation for bars and taverns within that community within which the adult establishment is located.
  - 12 No residential quarters shall be allowed on a premises with an adult establishment.
- (h) Location requirements and restrictions.

- 1 No more than one (1) adult establishment may be established on any one parcel.
  - 2 No adult establishment may be established within one thousand (1,000) feet of any other adult establishment.
  - 3 No adult retail establishment may be established within one thousand (1,000) feet of any "sensitive land-use."
  - 4 No adult entertainment establishment may be established within one thousand (1,000) feet of any "sensitive land-use."
  - 5 All adult entertainment establishments shall be located within three hundred (300) feet of a State Trunk Highway right-of-way (Maintained & Traveled) as indicated on the map of the official layout of the State Trunk Highway System of Kenosha Village prepared by the State of Wisconsin, Department of Transportation in accordance with §84.02(12), Wis. Stats., and as currently on file with the Kenosha Village Clerk and Kenosha Village Highway Commissioner and as subsequently amended and shall not be located within one thousand (1,000) feet of the right-of-way of the intersection of another State Trunk Highway or any Federal or Village Trunk Highway, or any other road.
  - 6 For these purposes, distance shall be measured in a straight line from the closest point of the structure or portion of the structure occupied or proposed for occupancy by the adult establishment to the nearest lot line of the other parcels of property to which these location requirements apply.
  - 7 The location requirements and restrictions specified in Sections ZN 4.04(6)(g)(1) through (6) do not apply to limited adult media stores.
- (i) Requirements Applicable to Limited Adult Media Stores Only. Adult media in a limited adult media store shall be kept in a separate room or section of the shop, which room or section shall:
- 1 not be open to any person under the age of eighteen (18); and
  - 2 be physically and visually separated from the rest of the store by an opaque wall of durable material, reaching from the floor to at least eight (8) feet high or to the ceiling, whichever is less; and
  - 3 be located so that the entrance to it is as far as reasonably practicable from media or other inventory in the store likely to be of particular interest to children; and
  - 4 have access controlled by electronic or other means to provide assurance that persons under age eighteen (18) will not easily gain admission and that the general public will not accidentally enter such room or section, or provide continuous video or window surveillance of the room by store personnel; and

- 5 provide signage at the entrance stipulating that persons under the age of eighteen (18) are not permitted inside.

(j) Additional Restrictions and Requirements Applicable to Adult Entertainment Establishments. Adult entertainment establishments shall comply with certain additional restrictions and requirements as set forth below:

- 1 It is unlawful for any person to perform or engage in or for any licensee or manager or agent of an adult entertainment establishment to permit any person, employee, entertainer or patron to perform or engage in any live act, demonstration, dance or exhibition on the premises of an adult entertainment establishment, which:
  - a Shows his/her genitals, pubic area, vulva, anus, or anal cleft with less than a fully opaque covering.
  - b Shows the female breast with less than a fully opaque covering of any part of the nipple and areola.
  - c Shows the human male genitals in a discernibly turgid state, even if fully and opaquely covered.
- 2 Adult Cabarets.
  - a Adult cabarets shall comply with Section ZN 3.05(4)(e) of this Ordinance relating to noise.
  - b All live performers in an adult cabaret shall perform only on a stage elevated no less than twenty-four (24) inches above floor level. There shall be a railing attached to the floor surrounding the stage which shall keep patrons at least thirty-six (36) inches from the stage. The stage shall be in a room or other enclosure of no less than six hundred (600) square feet.
- 3 Adult modeling studios.
  - a All models or other live performers in an adult modeling studio shall perform only on a stage elevated no less than twenty-four (24) inches above floor level. There shall be a railing attached to the floor surrounding the stage which shall keep patrons at least thirty-six (36) inches from the stage. The stage shall be in a room or other enclosed space of no less than six hundred (600) square feet.
- 4 Adult motion picture theaters.
  - a Adult motion picture theaters shall show movies only in a room or other enclosed space of no less than six hundred (600) square feet.

- (k) If any section, subsection, sentence, clause or phrase of this Ordinance is for any reason held to be invalid or unconstitutional by reason of any decision of any court of competent jurisdiction, such decision shall not affect the validity of any other section, subsection, sentence, clause or phrase or portion thereof. This Ordinance shall take effect and be in force from and after its passage and publication, as provided by law.

(7) **BP-1 BUSINESS PARK DISTRICT.**

- (a) **Primary Purpose and Characteristics.** The purpose of the Business Park District is to provide for the development of business parks that are established in a campus like setting with landscaping and architectural amenities that create a sense of place and an aesthetically attractive and integrated planned development. It is intended that the business park district provide for the grouping and clustering of single- and multi-tenant professional offices, commercial uses, non-hazardous research and development facilities and high-technology manufacturing that functionally interact well together that are not intended to be opened to or visited by the general public. The business park district is intended to be located primarily on collector streets and arterial highways to provide for good accessibility. Development standards of this district are intended to provide compatibility with and protection to surrounding residential and commercial properties by minimizing traffic congestion, noise, glare, vibration, odors, airborne particulate, and toxic substances.

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) **Principal Uses .**

- 1 Accounting, auditing, and bookkeeping services.
- 2 Architectural services.
- 3 Business/light industrial incubators.
- 4 Commercial bakeries and trade and contractor's offices.
- 5 Computer programming and other software services.
- 6 Corporate headquarters, manufacturing offices, and sales and distribution centers.
- 7 Data processing
- 8 Drafting services or quick reproduction services.



- 9 Financial institutions.
- 10 Food, beverage, and milk processing and soft drink bottling plants.
- 11 Laboratories (scientific, medical, chemical), applied physics, mechanical, electronic, biological, genetic or other similar experimental research, product development or testing facilities.
- 12 Light manufacturing and assembling of electronic components, precision instruments and devices.
- 13 Light manufacturing, assembling or packaging of products from previously prepared materials, such as cloth, plastic, paper, leather, precious or semiprecious metals or stones.
- 14 Light industrial plants such as required for production of millwork, machine tools, paper containers, light metal fabrication, and similar small industries.
- 15 Manufacturing and bottling of non-alcoholic beverages.
- 16 Office supplies.
- 17 Packaging, processing & assembly of confections, cosmetics, electrical appliances, foods (except garbage, fish and fish products, meat and meat products), instruments, jewelry, tobacco and toiletries.
- 18 Printing, lithographing, blueprinting, photocopying, and publishing establishments.
- 19 Processing or compounding and packaging of drugs and other medical and pharmaceutical products.
- 20 Professional offices which include the following professional and semiprofessional occupations: accountants, architects, attorneys, dentists, engineers, insurance agents, medical clinics, real estate agents, personal or family counselors, chiropractors, physical therapists, physicians, public secretaries, surgeons, or any other offices or professions which are of the same general character as the foregoing, but specifically excludes veterinarians, veterinary hospitals, animal grooming salons, dog kennels, and funeral homes.
- 21 Refrigerated warehousing.
- 22 Research and development offices and testing laboratories.
- 23 Scientific or engineering school facilities or institutions.

- 24 Scientific and precision instruments.
- 25 Telecommunication and call centers.
- 26 Testing centers.
- 27 Travel agencies.
- 28 Warehousing completely within an enclosed building, but specifically excluding self-storage facilities.
- 29 Vocational, trade, technical, or industrial schools.
- 30 Wholesalers and distributors.

(c) Accessory Uses.

- 1 Off-street parking in conjunction with any permitted use in this district. Provisions for the parking of automobiles, provided that such provisions within one hundred (100) feet of a residentially zoned district shall be screened.
- 2 Associated retail sales or products manufactured or services provided, on the conditions that such accessory sales/services shall not exceed twenty-five (25%) percent of the building area and/or tenant area devoted to the principal use.
- 3 Independent uses that are customarily principal uses that provide support to businesses and employees of principal uses within the district, on the conditions that such uses shall not exceed twenty-five (25%) percent of the building area and/or tenant area devoted to the principal use. Examples of such are: office supply stores, copy centers, travel agencies, and daycare centers.
- 4 Small wind energy system.
- 5 Solar energy system.

(d) Conditional Uses.

- 1 Utility substations.
- 2 Large wind energy system.
- 3 Parking structures.

(e) Density and Dimensional Standards.

- |   |                    |            |
|---|--------------------|------------|
| 1 | Minimum tract size | 35 acres   |
| 2 | Minimum lot area   | 3 acres    |
| 3 | Minimum lot width  | 150 feet   |
| 4 | Minimum open space | 25 percent |
- a In the calculation of open space areas, the following shall be excluded: private lot areas, public or private street right-of-way, and railroad and utility rights-of-way.
- b Or if the local municipality has a more restrictive standard.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed sixty (60) feet in height.
- 2 No maximum or minimum building area shall be required due to the variety of uses within the district and the diverse building demands of each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard and rear yard - not less than forty (40) feet in width on each side of all structures thirty-five (35) feet or less in height, and not less than fifty (50) feet in width on each side of all structures greater than thirty-five (35).

(h) Authorized Sanitary Sewer Systems.

- 1 Public Sanitary Sewer.
- 2 On-site sewage disposal absorption system.
- 3 Holding tanks.

(8) **B-94 INTERSTATE HIGHWAY 94 SPECIAL USE BUSINESS DISTRICT.**

- (a) Primary Purpose and Characteristics. The B-94 Interstate Highway Business District is intended to provide for the orderly and attractive grouping of appropriate businesses along Interstate Highway 94 at a density where a full range of urban services is available for an intense office, retail, and customer service area dependent upon highway traffic and which are specifically designed to serve the needs of such traffic and businesses which generate a high volume of vehicle traffic with a corresponding demand for large parking areas and dense development. The uses intended for this District may provide for taller buildings requiring a high level of public services including public sewer and water facilities and safety services such as police and fire protection within easy access. The B-94 Interstate Highway 94 Special Use Business District boundaries shall be limited to lands located within one thousand (1,000) feet of the right-of-way and adjacent to Interstate Highway 94 (I-94), or within one thousand (1,000) feet of the right-of-way and adjacent to the frontage roads of I-94. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Corporate Headquarters.
- 2 Hotels, conference and convention centers.
- 3 Financial institutions.
- 4 Professional Offices.

(c) Accessory Uses.

- 1 Bakeries.
- 2 Barber shops and beauty shops.
- 3 Bookstores.
- 4 Camera and photographic supply stores.
- 5 Caterer.
- 6 Clinics.

- 7 Clothing and apparel stores.
- 8 Delicatessens.
- 9 Dime stores and variety stores.
- 10 Drug stores.
- 11 Dry cleaning and laundry establishments.
- 12 Florists.
- 13 Garages for the storage of vehicles used in conjunction with the operation of the business.
- 14 Gift stores.
- 15 Hobby and craft shops.
- 16 Indoor recreation such as bowling alleys, skating rinks, athletic & health clubs, tennis, racquetball and handball courts, swimming pools.
- 17 Jewelry stores.
- 18 Liquor stores.
- 19 Music stores.
- 20 Nightclubs and dance halls.
- 21 Off-street parking and loading.
- 22 Optical stores.
- 23 Restaurants, bars and taverns (without live entertainment)
- 24 Small wind energy system.
- 25 Solar energy system.
- 26 Sporting goods stores.
- 27 Theaters.
- 28 Tobacco shops.

(d) Conditional Uses (see also Section ZN 5.03(8)).

- 1 Outdoor dining, entertainment or recreation (i.e., volleyball, horseshoes, swimming pools etc.).
- 2 Utility substations.
- 3 Large wind energy systems.
- 4 Parking structures.

(e) Lot Area and Width.

- 1 Individual businesses served by public sanitary sewage facilities shall provide a minimum lot area of two and one-half (2.5) acres and a minimum lot frontage of one hundred fifty (150) feet in width.
- 2 Required minimum open space of thirty-five (35%) percent, or if the local municipality has a more restrictive standard.
  - a In the calculation of open space areas, the following shall be excluded: public or private street right-of-way, and railroad and utility rights-of-way.

(f) Building Height and Area.

- 1 Hotel, banks, and office buildings in the B-94 business district may not exceed a total height of one hundred (100) feet including any architectural roof features.
- 2 No maximum or minimum building area shall be required in the B-94 District due to the variety of uses within the District and the diverse building demands on each user.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard and rear yard - not less than fifteen (15) feet in width on each side of all structures thirty-five (35) feet or less in height, and not less than thirty (30) feet in width on each side of all structures greater than thirty-five (35) in height but less than seventy-five (75) feet in height, and not less than forty (40) feet in width on each side of all structures seventy-five (75) feet or greater in height.

- (h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.

## **ZN 4.05 MANUFACTURING DISTRICTS.**

### **(1) M-1 LIMITED MANUFACTURING DISTRICT.**

- (a) Primary Purpose and Characteristics. The M-1 Limited Manufacturing District is intended to provide for manufacturing, industrial and related uses of a limited nature in size and for situations where such uses are not located in basic industrial groupings and where their relative proximity to other uses requires more restrictive regulation as to hours of operation, method of manufacturing, traffic patterns, storage of materials and products, shipment of materials and products, etc., so as to better provide for the health, safety and welfare of the public. There shall be strict compliance with the performance standards set forth in Section ZN 3.05(1) through (4) of this Ordinance. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

- (b) Principal Uses. The processing, manufacturing and/or storage of the following including office buildings, office parks, and ancillary uses shall constitute the principal uses permitted in the M-1 Limited Manufacturing District:
  - 1 Agricultural and general warehousing.
  - 2 Apparel and findings.
  - 3 Automatic temperature controls.
  - 4 Baked goods and bakery products.
  - 5 Blank books, loose-leaf binders and devices.
  - 6 Blending and preparing of flour.
  - 7 Books; publishing, printing and binding.

- 8 Boot and shoe cut, stock and findings.
- 9 Bottling and canning soft drinks and carbonated waters.
- 10 Brooms and brushes.
- 11 Candy and other confectionery products.
- 12 Canned, frozen and preserved fruits, vegetables, seafood and food specialties.
- 13 Canvas products.
- 14 Coffee roasting and coffee products.
- 15 Commercial storage, curing, drying, churning, processing and packaging of agricultural products.
- 16 Contract sorting, grading and packaging services for fruits and vegetables.
- 17 Corn, wet milling.
- 18 Costume jewelry, costume novelties, buttons, and miscellaneous notions.
- 19 Curtains and draperies.
- 20 Dental equipment and supplies.
- 21 Drying and dehydrating fruits and vegetables.
- 22 Electro typing and stereo typing.
- 23 Engineering, laboratory, and scientific (other than chemical) and research instruments and associated equipment.
- 24 Envelopes.
- 25 Fabrics.
- 26 Feeds prepared for animals and fowl.
- 27 Flavor extracts and flavoring syrups.
- 28 Flour and other grain mill products.
- 29 Fluid milk processing.



- 30 Footwear.
- 31 Fresh or frozen fruits, fruit juices, vegetable and specialties.
- 32 Fruit and vegetable pickling, vegetable sauces and seasoning, salad dressing preparation.
- 33 Fur goods.
- 34 Grain elevators and bulk storage of feed grains.
- 35 Handbags and other personal leather goods.
- 36 Hats, caps and millinery.
- 37 Household furniture and furnishings.
- 38 Ice.
- 39 Ice cream and frozen desserts.
- 40 Industrial leather, belting and packing.
- 41 Jeweler's findings and materials.
- 42 Jewelry and precious metals.
- 43 Lamps and lamp shades.
- 44 Leather and sheeplined clothing.
- 45 Leather gloves and mittens.
- 46 Luggage.
- 47 Macaroni, spaghetti, vermicelli, fettuccini, lasagna, angel hair and noodles.
- 48 Malt liquors.
- 49 Manifold business forms.
- 50 Mechanical measuring and controlling instruments.
- 51 Mens, youths and boys furnishings, work clothing and allied garments.
- 52 Milling of rice, vegetable and soybean oil.

- 53 Morticians' supplies.
- 54 Motion picture and video production.
- 55 Musical instruments and parts.
- 56 Newspapers; publishing, and printing.
- 57 Office furniture.
- 58 Office buildings, office parks, and ancillary uses, with or without space for principal or accessory manufacturing, assembly, repair or warehousing uses. Ancillary uses within office building or office parks include, but are not limited to: financial services such as banks, credit unions, savings and loan associations, and stock brokers; professional services such as medical, legal, and accounting services; personal services such as day care centers, dry cleaners, barbers and beauty shops; fast service printing and communication; food services such as restaurants and delicatessens; and convenience item retail stores.
- 59 Ophthalmic goods.
- 60 Optical instruments and lenses.
- 61 Orthopedic, prosthetic and surgical appliances and supplies.
- 62 Paperboard and cardboard.
- 63 Paper coating and glazing.
- 64 Partitions, shelving, lockers and office and store fixtures.
- 65 Office and artists supplies.
- 66 Photoengraving and photographic equipment and supplies.
- 67 Pleating, decorative and novelty stitching.
- 68 Poultry and small game dressing and packing providing all operations shall be conducted within an enclosed building.
- 69 Preparation of cereals.
- 70 Preparation of feeds for animals and fowl.
- 71 Printing, commercial.

- 72 Production of chocolate and cocoa.
- 73 Production of condensed and evaporated milk.
- 74 Production of creamery butter.
- 75 Production of flour and other grain mill products.
- 76 Production of frozen fruits, fruit juices, vegetables and other specialties.
- 77 Production of natural and processed cheese.
- 78 Production of wine, brandy, and brandy spirits.
- 79 Raincoats and other waterproof outer garments.
- 80 Sanitary paper products.
- 81 Sausages and other prepared meat products provided that all activities are conducted within an enclosed building.
- 82 Seed and grain processing and preparation.
- 83 Self-storage facilities.
- 84 Signs and advertising displays.
- 85 Sugar processing and production.
- 86 Surgical and medical instruments and apparatus.
- 87 Tobacco products.
- 88 Toys, amusement, sporting and athletic goods.
- 89 Typesetting.
- 90 Umbrellas, parasols, and canes.
- 91 Vegetable oil milling.
- 92 Venetian blinds and shades.
- 93 Wallpaper.
- 94 Watches, clocks, clockwork operated devices, and parts.

- 95 Wet milling of corn.
- 96 Women's, misses, Jr. girls and infants furnishings, work and dress clothing and allied garments.
- 97 Yarns and threads.
- (c) Accessory Uses.
  - 1 Garages for storage of vehicles used in conjunction with the operation of the industry.
  - 2 Office, storage, power supply and other uses normally auxiliary to the principal industrial operations.
  - 3 Off-street parking and loading areas.
  - 4 Small wind energy system.
  - 5 Solar energy system.
- (d) Conditional Uses (see also Section ZN 5.03(8)).
  - 1 Auto-truck body and engine repair and painting.
  - 2 Concrete and asphalt batch plants located on a parcel.
  - 3 Flea Markets.
  - 4 Freight terminals, yards, freight forwarding services, packing and crating services and related equipment storage and maintenance facilities.
  - 5 Malt production.
  - 6 Millwork, lumber yards, saw mills and planing mills.
  - 7 Packing and crating services.
  - 8 Petroleum bulk stations and terminals.
  - 9 Processing of hardwood dimension, flooring, veneer, and plywood.
  - 10 Retail or wholesale sales of manufactured products on premises.
  - 11 Utility substations.
  - 12 Large wind energy systems.

(e) Lot Area and Width.

- 1 Individual industries served by public sanitary sewage facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum frontage of seventy-five (75) feet in width.
- 2 Individual industries served by on-site soil absorption sewage disposal systems or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed thirty-five (35) feet in height.
- 2 No maximum or minimum building area shall be required in the M-1 Limited Manufacturing District due to the variety of uses within this district and the diverse building demands of each use.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State Trunk or Village Trunk highways; and not less than thirty (30) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than fifteen (15) feet in width on each side of all structures
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site soil absorption system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(2) **M-2 HEAVY MANUFACTURING DISTRICT.**

- (a) Primary Purpose and Characteristics. The M-2 Heavy Manufacturing District is intended to provide for manufacturing and industrial development of a more general nature than in the M-1 Limited Manufacturing District in those areas where the relationship to surrounding land use

would create fewer problems of compatibility. Such districts should not normally abut directly upon residential districts nor be less than ten (10) acres in area. All uses in the M-2 Heavy Manufacturing District shall comply with the performance standards set forth in Sections ZN 3.05(1) through Section ZN 3.05(4) of this Ordinance. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

- (b) Principal Uses. In addition to those industrial and office uses permitted in the M-1 Limited Manufacturing District (together with M-1 district ancillary uses), the processing, manufacturing and/or storage of the following shall constitute principal uses permitted in the M-2 Heavy Manufacturing District:

- 1 Aircraft and parts.
- 2 Aluminum, primary production.
- 3 Aluminum, rolling, drawing and extruding.
- 4 Asphalt, felts and coating.
- 5 Automobile manufacturing.
- 6 Batteries.
- 7 Bedding.
- 8 Biological products.
- 9 Blast furnaces, steel works, and the rolling of ferrous metals.
- 10 Bleach.
- 11 Bone.
- 12 Bottling of alcoholic beverages.
- 13 Brass works.
- 14 Brick and structural clay tile.

- 15 Candles.
- 16 Canneries.
- 17 Carbon black.
- 18 Carpeting.
- 19 Celluloid.
- 20 Cement.
- 21 Ceramic floor and wall tile.
- 22 Charcoal.
- 23 Clay building material and refractories.
- 24 Coal-tar.
- 25 Coke.
- 26 Coding, engraving and allied services.
- 27 Cold, rolled steel sheets, strips and burrs.
- 28 Cold storage warehouses, commercial service facility.
- 29 Communications equipment.
- 30 Concrete and concrete products.
- 31 Condensories.
- 32 Construction and prefabrication of wood buildings and structures, mobile homes and construction of wooden containers.
- 33 Construction, mining, and materials handling machinery and equipment.
- 34 Copper, drawing and extruding.
- 35 Copper, primary smelting and refining.
- 36 Cordage.
- 37 Creameries.

- 38 Cutlery, hand tools, and general hardware.
- 39 Dextrin.
- 40 Disinfectant.
- 41 Electrical lighting and wiring equipment.
- 42 Electrical industrial apparatus.
- 43 Electrical transmission and distribution equipment.
- 44 Electro metallurgical products.
- 45 Electronic components and accessories.
- 46 Engines and turbines.
- 47 Excelsior.
- 48 Farm machinery and equipment.
- 49 Feed mills.
- 50 Felt.
- 51 Fine earthenware, table and kitchen articles.
- 52 Fish by-products.
- 53 Food locker plants.
- 54 Fur dressing and dying furs.
- 55 Gelatin.
- 56 Glass manufacturing.
- 57 Glue and gelatin.
- 58 Guns and related equipment.
- 59 Gypsum products.
- 60 Hair products.



- 61 Heating apparatus and plumbing fixtures.
- 62 Household appliances.
- 63 Ice.
- 64 Ink, printing.
- 65 Lime.
- 66 Lime products.
- 67 Linoleum, asphalt-base and other hard surface floor coverings.
- 68 Lithographing.
- 69 Matches.
- 70 Meat (frozen storage).
- 71 Metal cans.
- 72 Metal products, fabricated structural.
- 73 Metal stamping.
- 74 Metal working machinery.
- 75 Motor vehicles and motor vehicle equipment.
- 76 Motorcycles, bicycles and parts.
- 77 Musical and sound equipment.
- 78 Non-ferrous metals, rolling, drawing and extruding.
- 79 Non-ferrous wire, drawing and insulating.
- 80 Office, computing and accounting machines.
- 81 Oil cloth.
- 82 Paper.
- 83 Pea viners.

- 84 Perfume, cosmetics and other toilet preparations.
- 85 Pharmaceutical preparations.
- 86 Plaster of paris.
- 87 Polish.
- 88 Porcelain electrical supplies.
- 89 Potash.
- 90 Pulp.
- 91 Pyroxylin.
- 92 Radio and television receiving sets.
- 93 Railroad equipment.
- 94 Reclaiming rubber, metal, paper and other resources.
- 95 Rope.
- 96 Rubber products.
- 97 Screw machine products and bolts, nuts, screws, rivets and washers.
- 98 Service industry machines.
- 99 Shoddy.
- 100 Shoe and ramp blacking.
- 101 Signaling and fire control equipment.
- 102 Size.
- 103 Soap and detergents.
- 104 Special cleaning, polishing and sanitation preparations.
- 105 Starch.
- 106 Steel wire drawing, and steel rails and spikes.

- 107 Sugar.
- 108 Textiles and fabric finishing mills.
- 109 Tires and innertubes.
- 110 Tool and die making.
- 111 Trade and contractor offices.
- 112 Vitreous china plumbing fixtures, china, earthenware fittings and bathroom fixtures.
- 113 Warehousing.
- 114 Weaving.
- 115 Wire products, fabrication.
- 116 Wood pressing.

(c) Accessory Uses.

- 1 Garages for storage of vehicles used in conjunction with the operation of the industry.
- 2 Offices, storage, power supply, and other uses normally auxiliary to the principal industrial operations.
- 3 Off-street parking and loading areas.
- 4 Retail stores and service facilities, such as retail outlet stores, surplus goods stores, and restaurants and food service facilities when established in conjunction with the permitted manufacturing or processing facility.
- 5 Small wind energy systems.
- 6 Solar energy system.
- 7 Wholesale stores.

(d) Conditional Uses (see also Section ZN 5.03(8)). In addition to those industrial conditional uses permitted in the M-1 Limited Manufacturing District, the following shall constitute conditional uses in the M-2 Heavy Manufacturing District:

- 1 Abrasives.
- 2 Animal reduction.

- 3 Bus terminals and related equipment storage and maintenance buildings.
- 4 Chemicals determined to be non-toxic by the U.S. Environmental Protection Agency and the Kenosha Village Office of Emergency Services.
- 5 Coal and bone distillation.
- 6 Concrete and asphalt batch plants.
- 7 Contractor storage yards.
- 8 Dye.
- 9 Electrical and steam generating plants.
- 10 Fertilizer production, sales, storage, mixing and blending. Said fertilizers shall be determined to be non-toxic by the Kenosha Village Office of Emergency Services.
- 11 Flea Markets.
- 12 Forges.
- 13 Foundries.
- 14 Fuel.
- 15 Gasohol and fuel-related alcohol plants.
- 16 Insulating materials determined to be non-toxic by the U.S. Environmental Protection Agency and the Kenosha Village Office of Emergency Services.
- 17 Laboratories.
- 18 Lacquer, paint, stain.
- 19 Large wind energy system.
- 20 Livestock sale facilities.
- 21 Living quarters for watchmen or caretakers.
- 22 Lubricating oils and grease.
- 23 Manufacturing, processing and storage of building materials, explosives, dry ice, fat, flammables, glue, grains, grease, lard, plastic, radioactive materials, shellac, soap, tires, turpentine, vinegar and yeast.

- 24 Meat packing, slaughterhouse and production of sausages and other meat products.
- 25 Motor Freight.
- 26 Offal.
- 27 Outside storage and manufacturing.
- 28 Plastic materials and synthetic resins, synthetic rubber, and synthetic and other man-made fibers and products.
- 29 Power and heat generating plants.
- 30 Production of animal and marine fats and oils.
- 31 Production of shortening, table oils, margarine, and other edible fats and oils.
- 32 Railroad terminals and freight yards.
- 33 Refineries.
- 34 Rendering plants.
- 35 Road test facilities.
- 36 Salvage yards.
- 37 Sewage treatment plants.
- 38 Ship and boat building and repair.
- 39 Smelting and refining of all metals and alloys.
- 40 Stockyards.
- 41 Tanneries.
- 42 Utility substations.
- 43 Towing with outside storage.

(e) Lot Area and Width.

- 1 Lots shall have a minimum area of forty thousand (40,000) square feet, and
- 2 All such lots shall have a frontage of not less than one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed sixty (60) feet in height.
- 2 No maximum or minimum building area shall be required in the M-2 district due to the variety of uses within this district and the diverse building demands of each use.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer.
- 2 On-site soil absorption disposal system.
- 3 Holding tank on lots of record created prior to July 1, 1980.

(3) **M-3 MINERAL EXTRACTION DISTRICT.**

- (a) Primary Purpose and Characteristics. The M-3 Mineral Extraction District is intended to provide for the orderly continuation of existing quarries and related operations and to provide for new operations that provide maximum protection to the natural environment. This district further provides for the restoration of quarries in a manner that will not deteriorate the natural environment in the Village. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).
- (b) Principal Uses. No principal uses shall be permitted in the M-3 Mineral Extraction District and all uses within this district shall be principal uses.
- (c) Accessory Uses.
- 1 Parking areas and storage garages
  - 2 Related office facilities and power supplies

- 3 Small wind energy system
- 4 Solar energy system
- (d) Conditional Uses (see also Section ZN 5.03(8)).
  - 1 Caretaker's quarters
  - 2 Concrete and asphalt batch plants
  - 3 Large wind energy system
  - 4 Manufacturing of cement or concrete products
  - 5 Manufacturing of lime, gypsum or plaster of paris
  - 6 Quarry or other non-metallic mining operations
  - 7 Storage of mineral products or machinery
  - 8 Storage and stockpiling of clean fill
  - 9 Utilities and substations
  - 10 Washing, refining or processing of rock, slate, gravel, sand or minerals processed from the top soil
- (e) Lot Area and Width.
  - 1 Lots in the M-3 Mineral Extraction District shall provide sufficient area for all structures, the extractive industrial operation, off-street parking and loading as required in Sections ZN 3.06(2) and (3) of this Ordinance and all required yards.
- (f) Building Height and Area.
  - 1 No building or parts of a building shall exceed sixty (60) feet in height, and
  - 2 No maximum or minimum building area shall be required in the M-3 Mineral Extraction District due to the variety of uses within the district and the diverse building demands of each use.
- (g) Yards.
  - 1 Extractive industrial operations shall be set back a minimum of two hundred (200) feet from the right-of-way of all highways or roads, and all property lines.

- 2 Utilities, and accessory uses such as offices, parking areas and stockpiles shall be set back a minimum of one hundred (100) feet from the right-of-way of all highways or roads and all property lines.

(h) Authorized Sanitary Sewer Systems.

- 1 On-site soil absorption disposal system
- 2 Public Sanitary Sewer System
- 3 Holding tank on lots of record created prior to July 1, 1980

(4) **M-4 SANITARY LANDFILL AND HAZARDOUS WASTE DISPOSAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The purpose of the M-4 Sanitary Landfill and Hazardous Waste Disposal District is to regulate land uses associated with the handling of materials that may be hazardous or harmful to public health and to the environment. These include micro-organism cultures, pesticides, biological products, infectious agents, and other toxic and hazardous substances. In order to provide for assurance, accountability, monitoring, and proper review of site operations and conditions involved in the handling of hazardous and potentially hazardous wastes, the M-4 Sanitary Landfill and Hazardous Waste Disposal District is created. This district is also intended to provide for the protection of the public, public safety, public welfare, health and convenience resulting from discharge of hazardous materials into the environment. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practical to list all of the principal and accessory uses that are hazardous, in fact, or potentially hazardous. Accordingly, the following list of principal, accessory, and conditional uses is illustrative only. Any individual aggrieved by the failure to list a particular use may file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity or dissimilarity of any use.

- (b) Principal Uses. No principal use shall be permitted as a matter of right in the M-4 Sanitary Landfill and Hazardous Waste Disposal District.
- (c) Conditional Uses.
- 1 Sanitary landfills operated in accordance with the provisions of Chapters NR 500 through NR 551 of the Wisconsin Administrative Code and amendments thereto
  - 2 Manufacture of substances where EPA certified priority pollutants such as Naphthalene, Phenols, and Polychlorinated Biphenyls (PCB's) may be a byproduct of such operation



- 3 Hazardous waste warehousing and transfer stations
  - 4 Garbage incineration or waste reduction
  - 5 Large wind energy system
  - 6 Medical waste incineration or waste processing
  - 7 Recycling centers and warehousing of recovered resources
- (d) Lot Area and Width.
- 1 Lots shall have a minimum area of ten (10) acres, and
  - 2 Lots shall have a frontage of not less than six hundred sixty (660) feet in width
- (e) Building Height.
- 1 No building or parts of a building shall exceed sixty (60) feet in height
- (f) Yards.
- 1 Street Yard - not less than two hundred (200) feet from the right-of-way of all Federal, State, and Village Trunk highways, and the right-of-way of all other roads
  - 2 Shore Yard - not less than two hundred (200) feet from the ordinary high water mark of any navigable water
  - 3 Side Yard - not less than two hundred (200) feet to an adjacent property line
  - 4 Rear Yard - not less than two hundred (200) feet to an adjacent property line
- (g) Authorized Sanitary Sewer Systems.
- 1 Public sanitary sewer
  - 2 On-side soil absorption sewage disposal system
  - 3 Holding tank on lots of record created prior to July 1, 1980

## **ZN 4.06 PUBLIC DISTRICTS.**

### **(1) I-1 INSTITUTIONAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The I-1 Institutional District is intended to provide for areas which are under private or public ownership and where the uses in those areas for public purposes or institutional purposes, whether public or private, are anticipated to be permanent. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

- (b) Principal Uses.

- 1 Churches
- 2 Hospitals, sanitariums, nursing homes and clinics
- 3 Libraries, museums and art galleries
- 4 Private youth development organizations such as YMCA, Junior Achievement, Boys Club of America and Campfire Girls
- 5 Public or private schools, colleges and universities
- 6 Public administrative offices and public service buildings including fire and police stations, community centers, public emergency shelters
- 7 Public utility offices

- (c) Accessory Uses.

- 1 Garages for storage of vehicles used in conjunction with the operation of the principal use.
- 2 Residential quarters for caretakers or clergy
- 3 Service buildings and facilities normally accessory to the principal uses
- 4 Solar energy system
- 5 Small wind energy system

- (d) Conditional Uses. (see also Section ZN 5.03(8))

- 1 Airport, heliport pads, aircraft hangars for storage and equipment maintenance; aircraft sales and service.
- 2 Bus terminals
- 3 Cemeteries
- 4 Large wind energy system
- 5 Penal, reform, disciplinary and mental institutions
- 6 Power and heat generating plants
- 7 Railroad depots
- 8 School auditoriums, gymnasiums and stadiums
- 9 Utility substations
- 10 Water storage tanks and towers and radio and television transmitting and receiving towers, microwave relay stations

(e) Lot Area and Width.

- 1 Institutional uses served by public sanitary sewage facilities shall provide a minimum lot area of ten thousand (10,000) square feet and a minimum lot frontage of seventy-five (75) feet in width, and
- 2 Institutional uses served by on-site soil absorption sewage disposal systems or other approved private means of sewage disposal, shall provide a minimum lot area of forty thousand (40,000) square feet and a minimum lot frontage of one hundred fifty (150) feet in width.

(f) Building Height and Area.

- 1 No building or parts of a building shall exceed sixty (60) feet in height.
- 2 No maximum or minimum building area shall be required in the I-1 Institutional District due to the variety of uses within this district and the diverse building demands of each use.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village trunk highways and not less than thirty (30) feet from the right-of-way of all other roads.

- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
- 3 Side yard - not less than ten (10) feet in width on each side of all structures.
- 4 Rear yard - not less than twenty-five (25) feet.

(h) Authorized Sanitary Sewer Systems.

- 1 Public sanitary sewer systems
- 2 On-site sewage disposal absorption system

(2) **PR-1 PARK-RECREATIONAL DISTRICT.**

- (a) Primary Purpose and Characteristics. The PR-1 Park-Recreational District is intended to provide for areas where the recreational needs, both public and private, of the populous can be met without undue disturbance of natural resources and adjacent uses. All new structures and uses and changes or additions to existing structures and uses shall be in compliance with the site plan review requirements of this Ordinance (See Section ZN 3.02(2)).

It is recognized that it is neither possible nor practicable to list all of the principal and accessory uses that are compatible with those listed below and therefore it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Principal Uses.

- 1 Bike trails
- 2 Boat rental and boat access sites
- 3 Botanical gardens
- 4 Cross country ski trails
- 5 Fairgrounds
- 6 Historic monuments or sites
- 7 Hiking and nature trails and walks
- 8 Hunting and fishing clubs

- 9 Neighborhood tot lots
- 10 Outdoor skating rinks
- 11 Parks and playgrounds
- 12 Picnicking areas
- 13 Playfields or athletic fields
- 14 Ski hills without facilities
- 15 Sledding, skiing or tobogganing
- 16 Tennis courts

(c) Accessory Uses.

- 1 Bathhouses and locker rooms
- 2 Equipment storage facilities
- 3 Pavilion and restroom facilities
- 4 Solar energy system
- 5 Small wind energy system

(d) Conditional Uses. (see also Section ZN 5.03(8))

- 1 Amusement Parks, carnivals, circus, fairground and exposition grounds
- 2 Archery and firearm ranges (outdoors)
- 3 Arena, stadium, coliseums, auditoriums and gymnasiums
- 4 Assemblies over five thousand (5,000)
- 5 Beaches, and public swimming pools
- 6 Campgrounds (rental)
- 7 Conversion of a resort into a residential condominium
- 8 Golf Courses

- 9 Golf driving ranges
- 10 Large wind energy system
- 11 Marinas and marine sales and services
- 12 Minibike trails
- 13 Recreational vehicle (RV) campground or subdivisions
- 14 Resorts
- 15 Skeet and trap shooting ranges
- 16 Ski hills with restaurants and ski shops
- 17 Snowmobile trails
- 18 Sportsmen clubs
- 19 Summer theaters and amphitheaters or band shells
- 20 Zoological and botanical gardens

(e) Lot Area and Width.

- 1 Lots in the PR-1 Park-Recreational District shall provide sufficient area for the principal structure or use and accessory structures, off-street parking and loading, the disposal of sanitary waste if a public sanitary sewage system is not available, and required yards

(f) Building Height and Area.

- 1 No building or part of a building shall exceed one hundred (100) feet in height
- 2 No maximum or minimum building area shall be required in the PR-1 Park-Recreational District due to the variety of uses within this district and the diverse building demands of each use.

(g) Yards.

- 1 Street yard - not less than sixty-five (65) feet from the right-of-way of all Federal, State trunk or Village trunk highways; and not less than forty (40) feet from the right-of-way of all other roads.
- 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.

- 3 Side yard - not less than forty (40) feet in width on each side of all structures
  - 4 Rear yard - not less than forty (40) feet
- (h) Authorized Sanitary Sewer Systems.
- 1 Public sanitary sewer
  - 2 On-site sewage disposal absorption system
  - 3 Holding tank

## **ZN 4.07 CONSERVANCY DISTRICTS.**

(1) **C-1 LOWLAND RESOURCE CONSERVANCY DISTRICT.**

- (a) Primary Purpose and Characteristics. The C-1 Lowland Resource Conservancy District is intended to be used to prevent destruction of valuable natural or manmade resources and to protect water courses and marshes including the shorelands of navigable waters, and areas that are not naturally drained, or which are subject to periodic flooding, where development would result in hazards to health or safety or would deplete or destroy natural resources or be otherwise incompatible with public welfare.
- (b) Designation of Lowland Conservancy Areas. For the purpose of determining which areas are to be located in the C-1 Lowland Resource Conservancy District, the Village Department of Planning and Development shall develop district maps reflecting the best data available. The district delineation process shall make use of the Wisconsin Wetland Inventory as depicted on the Department of Natural Resources Surface Water Data Viewer or other maps that reflect the best data available. This District includes all shoreland areas that are considered wetlands as defined in this Ordinance and as mapped and/or determined as wetlands in this Ordinance. Shoreland/wetlands designated on the Wisconsin Wetland Inventory Maps prepared by the WDNR as also depicted on the Department of Natural Resources Surface Water Data Viewer are also referred to as being located in the "Shoreland-Wetland Zoning District" as defined in this Ordinance. Said shoreland/wetlands are subject to the regulations of this section.
- (c) Mapping Disputes in the C-1 District. Whenever it is alleged that a discrepancy exists between a Lowland Resource Conservancy District delineation and actual field conditions, the staff of the Village Department of Planning and Development shall resolve the discrepancy in the following manner:
- 1 The Village Department of Planning and Development staff shall request that the staff of the Wisconsin Department of Natural Resources make a field inspection of the disputed lot and stake the limits of the Lowland Resource Conservancy District.

- 2 The Village Department of Planning and Development shall notify the property owner of the preliminary results of the field investigation. The property owner shall determine, within thirty (30) days, whether he will pursue a final wetland determination on the property.
- 3 Should the property owner decide to pursue a final wetland determination, he shall have a plat of survey prepared by a Wisconsin Registered Land Surveyor. The plat of survey shall show all property lines, structures on the lot or parcel, and the location of the wetland boundary as staked in the field. The plat of survey shall be filed with the Village Department of Planning and Development.
- 4 The Village Department of Planning and Development shall institute the appropriate action to change the Zoning Map to conform to the plat of survey. No fee shall be required of the property owner for this action.

(d) Principal Uses.

- 1 The following uses provided they do not involve filling, flooding, draining, dredging, ditching, tiling, or excavation:
  - a Hiking, fishing, trapping, hunting, swimming, and boating, unless otherwise prohibited by law.
  - 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 pasturing of livestock;
  - d The cultivation of agricultural crops;
  - e The practice of silviculture, including the planting, thinning, and harvesting of timber; and
  - f The construction or maintenance of duck blinds.
- 2 The following uses which may involve filling, flooding, draining, dredging, ditching, tiling, and excavating but only to the extent specifically provided below:
  - a Temporary water level stabilization measures necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on silvicultural activities if not corrected;
  - b The cultivation of cranberries including flooding, dike and dam construction or ditching necessary for the growing and harvesting of cranberries;



- c The maintenance and repair of existing agricultural drainage systems including ditching, tiling, dredging, excavating and filling necessary to maintain the level of drainage required to continue the existing agricultural use. This includes the minimum filling necessary for disposal of dredged spoil adjacent to the drainage system provided that dredged spoil is placed on existing spoil banks where possible;
  - d The construction or maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;
  - e The construction or maintenance of piers, docks or walkways built on pilings, including limited excavating and filling necessary for such construction and maintenance; and
  - f The maintenance, repair, replacement or reconstruction of existing Village and Village highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.
- (e) Conditional Uses. (see also Section ZN 5.03(8)) No conditional uses shall be permitted in the C-1 Lowland Resource Conservancy District except:
  - 1 Roads necessary to conduct silvicultural and agricultural cultivation activities.
  - 2 Non-residential buildings for wildlife management.
  - 3 Park and recreation areas.
  - 4 Railroad lines.
  - 5 Utilities.
  - 6 Wildlife ponds.
- (f) Lot Area. Where a lot or parcel is located partially within a C-1 Lowland Resource Conservancy District and partially within an adjoining use district, that area of the lot or parcel in the C-1 District may not be used to meet the lot area requirement of the adjoining district where public sanitary sewerage facilities are available. Where public sanitary sewerage facilities are not available, the area of the lot or parcel in the C-1 District may be used to meet the lot area requirement provided that at least forty thousand (40,000) square feet is provided outside the C-1 District.
- (g) Structures. No structure shall be permitted, except those permitted by conditional use grant, in the C-1 Lowland Resource Conservancy District. Furthermore, no on-site soil absorption sanitary sewage system, holding tank, or private well used to obtain water for ultimate human consumption shall be constructed in the C-1 Lowland Resource Conservancy District.

- (h) Platting Subdivisions. When platting new subdivisions, every effort shall be made to contain lands zoned C-1 Lowland Resource Conservancy District in outlots to be owned and controlled by a community association.
- (i) Prohibited Uses. Any use not listed in Section ZN 4.07(1)(d) is prohibited, unless the wetland or portion of the wetland has been rezoned by amendment of this Ordinance in accordance with Section ZN 4.07(1)(c) of this Ordinance and §59.69(5)(e), Wis. Stats.
- (2) **C-2 UPLAND RESOURCE CONSERVANCY DISTRICT.**
  - (a) Primary Purpose and Characteristics. The C-2 Upland Resource Conservancy District is intended to preserve, protect, enhance and restore all significant woodlands, areas of rough topography, and related scenic areas. Regulation of these areas will serve to control erosion and sedimentation and will promote and maintain the natural beauty of the Village.
  - (b) Principal Uses.
    - 1 Agricultural uses
    - 2 Hunting and fishing
    - 3 Preservation of scenic, historic and scientific areas
    - 4 Forest and game management
    - 5 Park and recreation areas
    - 6 One (1) single-family dwelling
  - (c) Accessory Uses.
    - 1 Gardening, tool and storage sheds incidental to the residential use
    - 2 General farm buildings, including barns, silos, stables, sheds, and storage bins
    - 3 Home occupations and professional home offices
    - 4 Private garages and carports
    - 5 Small wind energy system
    - 6 Solar energy system
  - (d) Conditional Uses. (see also Section ZN 5.03(8))
    - 1 Utility substations

- 2 Large wind energy system
  - 3 Bed and breakfast establishments
- (e) Lot Area and Width.
- 1 Parcels shall have a minimum area of five (5) acres
  - 2 All such parcels have a frontage of not less than three hundred (300) feet in width except on a cul-de-sac or curve in which case the lot frontage may be reduced to one hundred fifty (150) feet of frontage provided there is at least three hundred (300) feet of width at the required building setback line
- (f) Building, Height, Area and Design Standards.
- 1 No building or part of a building shall exceed thirty-five (35) feet in height
  - 2 The total minimum floor area of a dwelling shall be one thousand four hundred (1,400) square feet with a minimum first floor area of one thousand (1,000) square feet
  - 3 All residential dwellings shall be attached to a permanent foundation, be properly connected to all required utilities, have a building footprint of which the dwelling unit is not less than twenty-four (24) feet in width for at least fifty (50%) percent of the length, have a roof pitch of not less than 5/12, and an eave extension of at least twelve (12) inches, except residences with an architectural style defined as Colonial or Greek Revival.
- (g) Yards.
- 1 Street yards - not less than sixty-five (65) feet from the right-of-way of all Federal, State and Village Trunk highways and not less than forty (40) feet from the right-of-way of all other roads.
  - 2 Shore yard - not less than seventy-five (75) feet from the ordinary high water mark of any navigable water.
  - 3 Side yard - not less than twenty-five (25) feet in width on each side of all structures
  - 4 Rear yard - not less than fifty (50) feet.
- (h) Authorized Sanitary Sewer System.
- 1 On-site sewage disposal absorption system
  - 2 Public sanitary sewer

## **ZN 4.08 OVERLAY DISTRICTS.**

### **(1) FLOODPLAIN OVERLAY DISTRICT REGULATIONS.**

#### **(a) Statutory Authorization, Finding of Fact, Statement of Purpose, Title and General Provisions.**

- 1 Statutory Authorization. This Ordinance is adopted pursuant to the authorization in §61.35 and §62.23, Wis. Stats., for villages and cities and the requirements in §87.30, Wis. Stats.
- 2 Finding of Fact. Uncontrolled development and use of the floodplains and rivers of this municipality would impair the public health, safety, convenience, general welfare and tax base.
- 3 Statement of Purpose. This Ordinance is intended to regulate floodplain development to:
  - a Protect life, health and property;
  - b Minimize expenditures of public funds for flood control projects;
  - c Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
  - d Minimize business interruptions and other economic disruptions;
  - e Minimize damage to public facilities in the floodplain;
  - f Minimize the occurrence of future flood blight areas in the floodplain;
  - g Discourage the victimization of unwary land and home buyers;
  - h Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
  - i Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.
- 4 Title. This Ordinance shall be known as the Floodplain Overlay District Ordinance for the Village of Somers, Kenosha County, Wisconsin.
- 5 General Provisions.
  - a Areas to Be Regulated. This Ordinance regulates all areas that would be covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM) or other maps approved by DNR. Base flood elevations are derived from

the flood profiles in the Flood Insurance Study (FIS) and are shown as AE, A, and AH Zones on the FIRM. Regional Flood Elevations (RFE) may be derived from other studies if approved by the DNR and FEMA. If more than one (1) map or revision is referenced, the most restrictive information shall apply.

- b Official Maps & Revisions. The boundaries of all floodplain districts are designated as AE, A and AH Zones based on flood elevations derived from the flood profiles in the Flood Insurance Study (FIS) volume numbers 55059CV001B and 55059CV002B, effective March 7, 2017 Any change to the base flood elevations (BFE) or any changes to the boundaries of the floodplain in the FIS or on the Flood Insurance Rate Map (FIRM) must be reviewed and approved by the DNR and FEMA through the Letter of Map Change process (see sub. (f) *Amendments*) before it is effective. No changes to RFE's on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the Village Clerk of the Village of Somers. If more than one (1) map or revision is referenced, the most restrictive information shall apply.

- 1) All areas covered by the regional flood or base flood as shown on the Flood Insurance Rate Map (FIRM), as approved by DNR and FEMA. Base flood elevations are derived from the flood profiles in the Flood Insurance Study (FIS) volume numbers 55059CV001B and 55059CV002B, effective March 7, 2017 and are shown as AE, A, and AH Zones on the FIRM. The FIRM Map Panels affected are: 55059C0062D, 55059C0064D, 5509C0066D, 55059C0067D, 55059C0068D, 55059C0069D, 55059C0086D, 55059C0087D, 55059C0088D, 55059C0089D, 55059C0091D, 55059C0093D, 55059C0177D, 55059C0181D, 55059C0182D, 55059C0201D, 55059C0202D dated June 19, 2012 and FIRM Map Panel 55059C0184E dated March 7, 2017.

These official floodplain maps and studies were approved by the DNR and FEMA and are on file in the office of the Village Clerk of the Village of Somers. If more than one (1) map or revision is referenced, the most restrictive information shall apply.

- c Establishment of Floodplain Zoning Districts. The regional floodplain area contains one (1) Floodplain Zoning district:
- 1) The Floodplain Overlay District (FPO) is the regional flood limits and displayed as AE, A and AH Zones on the FIRM.
- d Locating Floodplain Boundaries. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in sub. 1) or 2) below. If a significant difference exists, the map shall be amended according to sub. (f) *Amendments*. The zoning administrator can

rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development 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 sub. (e)3c and the criteria in 1) and 2) below. Where the flood profiles are based on established base flood elevations from a FIRM, FEMA must approve any map amendment or revision pursuant to sub. (f)

*Amendments.*

- 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.
  - 2) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.
- e Removal of Lands from Floodplain. Compliance with the provisions of this Ordinance shall not be grounds for removing land from the floodplain unless it is filled at least two (2) feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to sub. (f) *Amendments*.
- f Compliance. Any development or use within the areas regulated by this Ordinance shall be in compliance with the terms of this Ordinance, and other applicable local, state, and federal regulations.
- g Municipalities and State Agencies Regulated. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this Ordinance 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 is exempt when §30.2022, Wis. Stats., applies.
- h Abrogation and Greater Restrictions.
- 1) This Ordinance supersedes all the provisions of any municipal zoning ordinance enacted under §59.69, §59.692 or §59.694, Wis. Stats. for counties; §62.23, Wis. Stats. for cities; §61.35, Wis. Stats. for villages; or §87.30, Wis. Stats., which relate to floodplains. A more restrictive ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.

- 2) This Ordinance is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this Ordinance imposes greater restrictions, the provisions of this Ordinance shall prevail.
- i Interpretation. In their interpretation and application, the provisions of this Ordinance 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 Ordinance, required by ch. NR 116, Wis. Adm. Code, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this Ordinance or in effect on the date of the most recent text amendment to this Ordinance.
- j Warning and Disclaimer of Liability. The flood protection standards in this Ordinance are based on engineering experience and research. Larger floods may occur or the flood height may be increased by man-made or natural causes. This Ordinance does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This Ordinance does not 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 Ordinance.
- k Severability. Should any portion of this Ordinance be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected.
- l Annexed Areas for Cities and Villages. The Kenosha County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the municipality for all annexed areas until the municipality adopts and enforces an ordinance which meets the requirements of ch. NR 116, Wis. Adm. Code and 44 CFR 59-72, *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 location.
- (b) General Standards Applicable to the Floodplain Overlay District. 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 and anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads; be constructed with flood-resistant materials; be constructed to minimize flood damages and to ensure that utility and mechanical equipment is designed and/or located so as to prevent water from entering or accumulating within the equipment 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 data for any development that meets the subdivision definition of this Ordinance and all other requirements in sub. (e)1b. Adequate drainage shall be provided to reduce exposure to flood hazards and all public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damages.

1 Hydraulic and Hydrologic Analyses.

a No FPO development shall:

- 1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, causing any increase in the regional flood height; or
- 2) Cause any increase in the regional flood height due to floodplain storage area lost.

b The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or cause any increase in the regional flood height, based on the officially adopted FIRM or other adopted map, unless the provisions of sub. (f) *Amendments* are met.

2 Watercourse Alterations. No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official 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 standards of sub. (b)1 must be met and the flood carrying capacity of any altered or relocated watercourse shall be maintained.

As soon as is practicable, but not later than six (6) months after the date of the watercourse alteration or relocation and pursuant to sub. (f) *Amendments*, the community shall apply for a Letter of Map Revision (LOMR) from FEMA. Any such alterations must be reviewed and approved by FEMA and the DNR through the LOMC process.

3 Chapter 30, 31, Wis. Stats., Development. Development which requires a permit from the Department, under chs. 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 floodplain zoning ordinance are made according to sub. (f) *Amendments*.

(c) Floodplain Overlay District (FPO).

1 Applicability. This section applies to all areas of the floodplain zoning maps.



- 2 Permitted Uses. The following open space uses are allowed in the Floodplain Overlay District, if they are not prohibited by any other ordinance; they meet the standards in sub. (c)3 and (c)4; and all permits or certificates have been issued according to sub. (e)1.
- a Agricultural uses, such as: farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.
  - b Non-structural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.
  - c Non-structural 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)3d.
  - d Uses or structures accessory to open space uses, or classified as historic structures that comply with sub. (c)3 and (c)4.
  - e Extraction of sand, gravel or other materials that comply with sub. (c)3d.
  - f 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 chs. 30 and 31, Wis. Stats.
  - g Public utilities, streets and bridges that comply with sub. (c)3c.
  - h Fences, split rail, barbed wire or wire strand fences for agricultural purposes or other fencing that comply with sub. (c)3 and (c)4.
- 3 Standards for Developments in the FPO.
- a General.
    - 1) Any development in the floodplain shall comply with sub. (b) and have a low flood damage potential.
    - 2) Applicants shall provide the following data to determine the effects of the proposal according to sub. (b)1:
      - a) A cross-section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
      - b) An analysis calculating the effects of this proposal on regional flood height.

- 3) The zoning administrator shall deny the permit application if the project will cause any increase in the flood elevations upstream or downstream, based on the data submitted for sub. 2) above.
- b 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:
- 1) Not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
  - 2) Shall have a minimum of two (2) openings on different walls having a total net area not less than one (1) square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one (1) foot above grade. The openings shall be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - 3) Must be anchored to resist flotation, collapse, and lateral movement;
  - 4) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - 5) It must not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- c Public Utilities, Streets and Bridges. Public utilities, streets and bridges may be allowed by permit, if:
- 1) Adequate floodproofing measures are provided to the flood protection elevation; and
  - 2) Construction meets the development standards of sub. (b)1.
- d Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit, if:
- 1) The requirements of sub. (b)1 are met;
  - 2) No material is deposited in navigable waters unless a permit is issued by the Department pursuant to ch. 30, Wis. Stats., and a permit pursuant to s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344 has been issued, if applicable, and all other requirements have been met;

- 3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
  - 4) The fill is not classified as a solid or hazardous material.
- 4 Prohibited Uses. All uses not listed as permitted uses in sub. (c)2 are prohibited, including the following uses:
  - a Habitable structures, including manufactured homes, structures with high flood damage potential, or those not associated with permanent open-space uses;
  - b Storing materials that are buoyant, flammable, explosive, injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
  - c Uses not in harmony with or detrimental to uses permitted in the adjoining districts;
  - d 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;
  - e 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 chs. NR 811 and NR 812, Wis. Adm. Code;
  - f Any solid or hazardous waste disposal sites;
  - g Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code;
  - h Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodplain which complies with the regulations for the floodplain area occupied; and
  - i Any campgrounds and mobile recreational vehicles (RV).
- (d) Non-conforming Uses.
  - 1 General.
    - a Applicability. If these standards conform with §87.30, Wis. Stats. and ch. NR 116.15, Wis. Adm. Code and 44 CFR 59-72, they shall apply to all modifications or additions to any non-conforming use or structure and to the use of any structure or premises which was lawful before the passage of this Ordinance or any amendment thereto.

b The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this Ordinance may continue subject to the following conditions:

- 1) No modifications or additions to a non-conforming use or structure shall be permitted unless they comply with this Ordinance. 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. Maintenance is not considered a modification; this includes painting, decorating, paneling and other non-structural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Any costs associated with the repair of a damaged structure are not considered maintenance.

The construction of a deck that does not exceed two hundred (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 in order to provide safe ingress and egress to the principal structure.

- 2) If a non-conforming use or the use of a non-conforming structure is discontinued for twelve (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 Ordinance;
- 3) The municipality shall keep a record which lists all non-conforming uses and non-conforming 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;
- 4) No modification or addition to any non-conforming structure or any structure with a non-conforming use, which over the life of the structure would equal or exceed fifty (50%) percent 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 Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sub. (b). The costs of elevating the lowest floor of a non-conforming building or a building with a non-conforming use to the flood protection elevation are excluded from the fifty (50%) percent provisions of this paragraph;

- 5) No maintenance to any non-conforming structure or any structure with a non-conforming use, the cost of which would equal or exceed fifty (50%) percent 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 Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sub. (b).
- 6) If on a per event basis the total value of the work being done under 4) and 5) above equals or exceeds fifty (50%) percent of the present equalized assessed value the work shall not be permitted unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this Ordinance. Contiguous dry land access must be provided for residential and commercial uses in compliance with sub. (c)3a.
- 7) Except as provided in sub. 8) below, if any non-conforming structure or any structure with a non-conforming use is destroyed or is substantially damaged in the A, AE or AH Districts, it cannot be replaced, reconstructed or rebuilt. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds fifty (50%) percent of the structure's present equalized assessed value.
- 8) For non-conforming buildings that are substantially damaged or destroyed by a non-flood disaster, the repair or reconstruction of any such non-conforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.
  - a) Residential Structures
    - i) Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of sub. (e)5b.
    - ii) Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.

- iii) Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
    - iv) In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
  - b) Non-residential Structures
    - i) Shall meet the requirements of sub. (d)1b8)a)i) - vi).
    - ii) Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or, together with attendant utility and sanitary facilities, shall meet the standards in sub. (b).
- c) A non-conforming historic structure may be altered if the alteration will not preclude the structure's continued designation as a historic structure, the alteration will comply with sub. (c)3a, flood resistant materials are used, and construction practices and floodproofing methods that comply with sub. (e)5 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of sub. (d)1b8)a) if it is determined that the proposed repair or rehabilitation will not preclude the structure's continued designation as a historic structure and is the minimum necessary to preserve the historic character and design of the structure.

## 2 Floodplain Overlay District.

- a) No modification or addition shall be allowed to any non-conforming structure or any structure with a non-conforming use in the Floodplain Overlay District, unless such modification or addition:
  - 1) Has been granted a permit or variance which meets all ordinance requirements;
  - 2) Meets the requirements of sub. (d)1;
  - 3) Shall not increase the obstruction to flood flows or regional flood height;
  - 4) Any addition to the existing structure shall be floodproofed, pursuant to sub. (e)5, by means other than the use of fill, to the flood protection elevation; and

- 5) 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 flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (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, building access or limited storage.
- b) 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 the Floodplain Overlay District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodplain area shall meet the applicable requirements of all municipal ordinances, sub. (e)5c and ch. SPS 383, Wis. Adm. Code.
- c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodplain Overlay District. Any replacement, repair or maintenance of an existing well in the Floodplain Overlay District shall meet the applicable requirements of all municipal ordinances, sub. (e)5c and chs. NR 811 and NR 812, Wis. Adm. Code.
- (e) Administration. Where a zoning administrator, planning agency or a board of adjustment/appeals has already been appointed to administer a zoning ordinance adopted under §59.69, §59.692 or §62.23(7), Wis. Stats., these officials shall also administer this Ordinance.
  - 1 Zoning Administrator.
    - a Duties and Powers. The zoning administrator is authorized to administer this Ordinance 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 Ordinance and issue certificates of compliance where appropriate.
- 3) Inspect and assess all damaged floodplain structures 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;
  - c) Floodproofing certificates.
  - d) Water surface profiles, floodplain zoning maps and ordinances, non-conforming uses and structures including changes, appeals, variances and amendments.
  - e) All substantial damage assessment reports for floodplain structures.
  - f) List of non-conforming structures and uses.
- 5) Submit copies of the following items to the Department Regional office:
  - a) Within ten (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 case-by-case analyses and other required information including an annual summary 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 Ordinance to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the Department Regional office.
- 7) Submit copies of amendments to the FEMA Regional office.



- b Land Use Permit. A land use permit shall be obtained before any new development; repair, modification or addition to an existing structure; 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:

1) General Information.

- a) Name and address of the applicant, property owner and contractor;
- b) Legal description, proposed use, and whether it is new construction or a modification;

2) Site Development Plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- a) Location, dimensions, area and elevation of the lot;
- b) Location of the ordinary highwater mark of any abutting navigable waterways;
- c) Location of any structures with distances measured from the lot lines and street center lines;
- d) Location of any existing or proposed on-site sewage systems or private water supply systems;
- e) Location and elevation of existing or future access roads;
- f) Location of floodplain limits as determined from the official floodplain zoning maps;
- g) 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);
- h) Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of sub. (c) or (d) are met; and
- i) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to sub. (b)1. This may include any of the information noted in sub. (c)3a.

3) Hydraulic and Hydrologic Studies to Analyze Development. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in the State. The study contractor shall be responsible for the technical adequacy of the study. All studies shall be reviewed and approved by the Department.

a) Zone A floodplains:

i) Hydrology.

(a) The appropriate method shall be based on the standards in ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.

ii) Hydraulic modeling. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:

(a) determination of the required limits of the hydraulic model shall be based on detailed study information for downstream structures (dam, bridge, culvert) to determine adequate starting WSEL for the study.

(b) channel sections must be surveyed.

(c) minimum four (4) foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.

(d) a maximum distance of five hundred (500) feet between cross sections is allowed in developed areas with additional intermediate cross sections required at transitions in channel bottom slope including a survey of the channel at each location.

(e) the most current version of HEC\_RAS shall be used.

(f) a survey of bridge and culvert openings and the top of road is required at each structure.

- (g) additional cross sections are required at the downstream and upstream limits of the proposed development and any necessary intermediate locations based on the length of the reach if greater than five hundred (500) feet.
  - (h) standard accepted engineering practices shall be used when assigning parameters for the base model such as flow, Manning's N values, expansion and contraction coefficients or effective flow limits. The base model shall be calibrated to past flooding data such as high water marks to determine the reasonableness of the model results. If no historical data is available, adequate justification shall be provided for any parameters outside standard accepted engineering practices.
  - (i) the model must extend past the upstream limit of the difference in the existing and proposed flood profiles in order to provide a tie-in to existing studies. The height difference between the proposed flood profile and the existing study profiles shall be no more than zero (0.00) feet.
- iii) Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodplain.
  - (a) If the proposed development is located outside of the floodplain, then it is determined to have no impact on the regional flood elevation.
  - (b) If any part of the proposed development is in the floodplain, it must be added to the base model to show the difference between existing and proposed conditions. The study must ensure that all coefficients remain the same as in the existing model, unless adequate justification based on standard accepted engineering practices is provided.

- b) Zone AE Floodplains.
- i) Hydrology. If the proposed hydrology will change the existing study, the appropriate method to be used shall be based on ch. NR 116.07(3), Wis. Admin. Code, *Hydrologic Analysis: Determination of Regional Flood Discharge*.
  - ii) Hydraulic model. The regional flood elevation shall be based on the standards in ch. NR 116.07(4), Wis. Admin. Code, *Hydraulic Analysis: Determination of Regional Flood Elevation* and the following:
    - (a) Duplicate Effective Model. The effective model shall be reproduced to ensure correct transference of the model data and to allow integration of the revised data to provide a continuous FIS model upstream and downstream of the revised reach. If data from the effective model is available, models shall be generated that duplicate the FIS profiles and the elevations shown in the Floodplain Data Table in the FIS report to within 0.1 foot.
    - (b) Corrected Effective Model. The Corrected Effective Model shall not include any man-made physical changes since the effective model date, but shall import the model into the most current version of HEC-RAS for Department review.
    - (c) Existing (Pre-Project Conditions) Model. The Existing Model shall be required to support conclusions about the actual impacts of the project associated with the Revised (Post-Project) Model or to establish more up-to-date models on which to base the Revised (Post-Project) Model.
    - (d) Revised (Post-Project Conditions) Model. The Revised (Post-Project Conditions) Model shall incorporate the Existing Model and any proposed changes to the topography caused by the proposed development. This model shall reflect proposed conditions.

- (e) All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
  - (f) Changes to the hydraulic models shall be limited to the stream reach for which the revision is being requested. Cross sections upstream and downstream of the revised reach shall be identical to those in the effective model and result in water surface elevations and top widths computed by the revised models matching those in the effective models upstream and downstream of the revised reach as required. The Effective Model shall not be truncated.
- iii) Mapping. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
  - (a) Consistency between the revised hydraulic models, the revised floodplain delineations, the revised flood profiles, topographic work map, annotated FIRMs, construction plans, bridge plans.
  - (b) Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  - (c) Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains boundaries.
  - (d) If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
  - (e) The revised floodplain boundaries shall tie into the effective floodplain boundaries.

- (f) All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
  - (g) Both the current and proposed floodplain shall be shown on the map.
  - (h) The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.
- 4) Expiration. All permits issued under the authority of this Ordinance shall expire no more than one hundred eighty (180) days after issuance. The permit may be extended for a maximum of one hundred eighty (180) days for good and sufficient cause.
- c 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:
  - 1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this Ordinance;
  - 2) Application for such certificate shall be concurrent with the application for a permit;
  - 3) If all ordinance provisions are met, the certificate of compliance shall be issued within ten (10) days after written notification that the permitted work is completed;
  - 4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of sub. (e)5 are met.
- d Other Permits. Prior to obtaining a floodplain development permit the applicant must secure all necessary permits from federal, state, and local agencies,

including but not limited to those required by the U.S. Army Corps of Engineers under s. 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 U.S.C. 1344.

2 Zoning Agency.

a The zoning agency shall:

- 1) oversee the functions of the office of the zoning administrator; and
- 2) review and advise the governing body on all proposed amendments to this Ordinance, maps and text.

b The zoning agency shall not:

- 1) grant variances to the terms of the ordinance in place of action by the Board of Appeals; or
- 2) amend the text or zoning maps in place of official action by the governing body.

3 Board of Appeals. The Board of Appeals, created under §59.694, Wis. Stats., for counties or §62.23(7)(e), Wis. Stats., for cities or villages, is hereby authorized or shall be appointed to act for the purposes of this Ordinance. The Board shall exercise the powers conferred by Wisconsin Statutes and adopt rules for the conduct of business. The zoning administrator shall not be the secretary of the Board.

a Powers and Duties. The Board of Appeals shall:

- 1) 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 Ordinance;
- 2) Boundary Disputes - Hear and decide disputes concerning the district boundaries shown on the official floodplain zoning map; and
- 3) Variances - Hear and decide, upon appeal, variances from the ordinance standards.

b Appeals to the Board.

- 1) 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 appeal shall

be taken within thirty (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.

2) Notice and Hearing for Appeals Including Variances

a) Notice - The board shall:

- i) Fix a reasonable time for the hearing;
- ii) Publish adequate notice pursuant to Wisconsin Statutes, specifying the date, time, place and subject of the hearing; and
- iii) Assure that notice shall be mailed to the parties in interest and the Department Regional office at least ten (10) days in advance of the hearing.

b) Hearing - Any party may appear in person or by agent. The board shall:

- i) Resolve boundary disputes according to sub. (e)3c;
- ii) Decide variance applications according to sub. (e)3d; and
- iii) Decide appeals of permit denials according to sub. (e)4.

3) Decision. The final decision regarding the appeal or variance application shall:

- a) Be made within a reasonable time;
- b) Be sent to the Department Regional office within ten (10) days of the decision;
- c) Be a written determination signed by the chairman or secretary of the Board;
- d) State the specific facts which are the basis for the Board's decision;



- e) 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; and
  - f) 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.
- c) 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) The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the Board; and
  - 3) If the boundary is incorrectly mapped, the Board should inform the zoning committee or the person contesting the boundary location to petition the governing body for a map amendment according to sub (f) *Amendments*.
- d) Variance.
  - 1) The Board may, upon appeal, grant a variance from the standards of this Ordinance if an applicant convincingly demonstrates that:
    - a) Literal enforcement of the ordinance will cause unnecessary hardship;
    - b) 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;
    - c) The variance is not contrary to the public interest; and
    - d) The variance is consistent with the purpose of this Ordinance in sub. (a)3.
  - 2) In addition to the criteria in sub. 1) above, to qualify for a variance under FEMA regulations, the following criteria must be met:

- a) The variance shall not cause any increase in the regional flood elevation;
  - b) Variances can only be granted for lots that are less than one-half (½) acre and are contiguous to existing structures constructed below the R.E.; and
  - c) Variances shall only be granted upon a showing of good and sufficient cause, as evidenced by a written report prepared by an engineer licensed in the State of Wisconsin which is submitted not less than two (2) weeks prior to the hearing on the variance, 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 the ordinance.
- 3) A variance shall not:
- a) Grant, extend or increase any use prohibited in the zoning district;
  - b) Be granted for a hardship based solely on an economic gain or loss;
  - c) Be granted for a hardship which is self-created.
  - d) Damage the rights or property values of other persons in the area;
  - e) Allow actions without the amendments to this Ordinance or map(s) required in sub. (f) *Amendments*; and
  - f) Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.
- 4) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to Twenty-five (\$25.00) Dollars per One Hundred (\$100.00) Dollars of coverage. A copy shall be maintained with the variance record.

4 To Review Appeals of Permit Denials.

- a The Zoning Agency (sub. (e)2) or Board shall review all data related to the appeal. This may include:

- 1) Permit application data listed in sub. (e)1b;
  - 2) Floodplain determination data in sub. (b);
  - 3) Data listed in sub. (c)3a2) where the applicant has not submitted this information to the zoning administrator; and
  - 4) Other data submitted with the application, or submitted to the Board with the appeal.
- b For appeals of all denied permits the Board shall:
- 1) Follow the procedures of sub. (e)3;
  - 2) Consider zoning agency recommendations; and
  - 3) Either uphold the denial or grant the appeal.
- c For appeals concerning increases in regional flood elevation the Board shall:
- 1) Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of sub. (f) *Amendments*; and
  - 2) Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.
- 5 Floodproofing Standards for Non-conforming Structures or Uses.
- a No permit or variance shall be issued for a non-residential structure designed to be watertight below the regional flood elevation 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 and submits a FEMA Floodproofing Certificate.
- b For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan either:
- 1) certified by a registered professional engineer or architect; or
  - 2) meets or exceeds the following standards:

- a) a minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding;
    - b) the bottom of all openings shall be no higher than one (1) foot above grade; and
    - c) openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
  - c Floodproofing measures shall be designed, as appropriate, to:
    - 1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
    - 2) Protect structures to the flood protection elevation;
    - 3) Anchor structures to foundations to resist flotation and lateral movement;
    - 4) Minimize or eliminate infiltration of flood waters; and
    - 5) Minimize or eliminate discharges into flood waters.
- 6 Public Information.
  - a Place marks on structures to show the depth of inundation during the regional flood.
  - b All maps, engineering data and regulations shall be available and widely distributed.
  - c Real estate transfers should show what floodplain district any real property is in.
- (f) Amendments. Obstructions or increases may only be permitted if amendments are made to this Ordinance, the official floodplain zoning maps and water surface profiles, in accordance with sub. (f)1.
  - In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with sub. (f)1. Any such alterations must be reviewed and approved by FEMA and the DNR.

- 1 General. The governing body shall change or supplement the floodplain zoning district boundaries and this Ordinance in the manner outlined in sub. (f)2 below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:
  - a Any fill or floodplain encroachment that obstructs flow causing any increase in the regional flood height;
  - b Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
  - c Any changes to any other officially adopted floodplain maps listed in sub. (a)5b2);
  - d Any floodplain fill 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;
  - e Correction of discrepancies between the water surface profiles and floodplain maps;
  - f Any upgrade to a floodplain zoning ordinance text required by s. NR 116.05, Wis. Adm. Code, or otherwise required by law, or for changes by the municipality; and
  - g All channel relocations and changes to the maps to alter floodplain lines or to remove an area from the floodplain that is based on a base flood elevation from a FIRM requires prior approval by FEMA.
- 2 Procedures. Ordinance amendments may be made upon petition of any party according to the provisions of §62.23, Wis. Stats., for cities and villages. The petitions shall include all data required by sub. (e)1d and (e)1b. The Land Use Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.
  - a The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. 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., for cities and villages.
  - b No amendments shall become effective until reviewed and approved by the Department.

- c All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, 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 governing body.
- (g) Enforcement and Penalties. Any violation of the provisions of this Ordinance by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the municipality a penalty of not more than Fifty (\$50.00) Dollars, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this Ordinance is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the municipality, the state, or any citizen thereof pursuant to §87.30, Wis. Stats.
- (h) Definitions. Unless specifically defined, words and phrases in this Ordinance 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.
  - 1 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.
  - 2 AH ZONE – See AREA OF SHALLOW FLOODING.
  - 3 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.
  - 4 ALTERATION – An enhancement, upgrading or substantial change or modifications other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.
  - 5 AREA OF SHALLOW FLOODING – A designated A, AH, AR/A, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a one (1%) percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable, and where velocity flood may be evident. Such flooding is characterized by ponding or sheet flow.
  - 6 BASE FLOOD – Means the flood having a one (1%) percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

- 7 BASEMENT – Any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.
- 8 BUILDING – See STRUCTURE.
- 9 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 highwater mark, except where such filling is prohibited by the floodway provisions of this Ordinance.
- 10 CAMPGROUND – Any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for non-permanent overnight use by four (4) or more camping units, or which is advertised or represented as a camping area.
- 11 CAMPING UNIT – Any portable device, no more than four hundred (400) square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pickup truck, or tent that is fully licensed, if required, and ready for highway use.
- 12 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 is in compliance with all of the provisions of this Ordinance.
- 13 CHANNEL – A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.
- 14 CRAWLWAYS or CRAWL SPACE – An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for access to plumbing and electrical utilities.
- 15 DECK – An unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.
- 16 DEPARTMENT – The Wisconsin Department of Natural Resources.
- 17 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.

- 18 DRYLAND 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.
- 19 ENCROACHMENT – Any fill, structure, equipment, use or development in the floodplain.
- 20 FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) – The federal agency that administers the National Flood Insurance Program.
- 21 FLOOD INSURANCE RATE MAP (FIRM) – A map of a community on which the Federal Insurance Administration has delineated both the floodplain and the risk premium zones applicable to the community. This map can only be amended by the Federal Emergency Management Agency.
- 22 FLOOD or FLOODING – A general and temporary condition of partial or complete inundation of normally dry land areas caused by one (1) of the following conditions:
- The overflow or rise of inland waters;
  - The rapid accumulation or runoff of surface waters from any source;
  - The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan or Lake Superior; or
  - 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.
- 23 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 the average once in a specified number of years or as a percent (%) chance of occurring in any given year.
- 24 FLOOD FRINGE – That portion of the floodplain outside of the floodway which is covered by flood waters during the regional flood and associated with standing water rather than flowing water.
- 25 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.



- 26 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.

- 27 FLOODPLAIN – Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.
- 28 FLOODPLAIN ISLAND – A natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.
- 29 FLOODPLAIN MANAGEMENT – Policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.
- 30 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.
- 31 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.
- 32 FLOOD PROTECTION ELEVATION – An elevation of two (2) feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)
- 33 FLOOD STORAGE – Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.
- 34 FLOODWAY – The channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.
- 35 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.

- 36 HABITABLE STRUCTURE – Any structure or portion thereof used or designed for human habitation.
- 37 HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one (1) week (seven (7) 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 (seven (7) days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.
- 38 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.
- 39 HIGHEST ADJACENT GRADE – The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.
- 40 HISTORIC STRUCTURE – Any structure that is either:
- 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;
  - 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;
  - 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
  - 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.
- 41 INCREASE IN REGIONAL FLOOD HEIGHT – A calculated upward rise in the regional flood elevation greater than zero (0.00) 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.
- 42 LAND USE – Any non-structural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

- 43      LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.
- 44      LOWEST FLOOR – The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.
- 45      MAINTENANCE – The act or process of restoring to original soundness, including redecorating, refinishing, non-structural repairs, or the replacement of existing fixtures, systems or equipment with equivalent fixtures, systems or structures.
- 46      MANUFACTURED HOME – A structure transportable in one (1) 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."
- 47      MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION – A parcel (or contiguous parcels) of land, divided into two (2) or more manufactured home lots for rent or sale.
- 48      MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING – A parcel of land, divided into two (2) 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 Ordinance. 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.
- 49      MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING – 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.
- 50      MOBILE RECREATIONAL VEHICLE – A vehicle which is built on a single chassis, four hundred (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 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 vehicles."
- 51      MODEL, CORRECTED EFFECTIVE – A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

- 52 MODEL, DUPLICATE EFFECTIVE – A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.
- 53 MODEL, EFFECTIVE – The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.
- 54 MODEL, EXISTING (PRE-PROJECT) – A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.
- 55 MODEL, REVISED (POST-PROJECT) – A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.
- 56 MUNICIPALITY or MUNICIPAL – The county, city or village governmental units enacting, administering and enforcing this zoning ordinance.
- 57 NAVD or NORTH AMERICAN VERTICAL DATUM – Elevations referenced to mean sea level datum, 1988 adjustment.
- 58 NGVD or NATIONAL GEODETIC VERTICAL DATUM – Elevations referenced to mean sea level datum, 1929 adjustment.
- 59 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. For the purpose of determining 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.
- 60 NON-CONFORMING STRUCTURE – An existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this Ordinance 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 non-conforming.)
- 61 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 Ordinance for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

- 62 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.
- 63 OFFICIAL FLOODPLAIN ZONING MAP – That map, adopted and made part of this Ordinance, as described in sub. (a)5b, which has been approved by the Department and FEMA.
- 64 OPEN SPACE USE – Those uses having a relatively low flood damage potential and not involving structures.
- 65 ORDINARY HIGHWATER MARK – The point on the bank or shore up to which the presence and action of surface water is 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 characteristic.
- 66 PERSON – An individual, or group of individuals, corporation, partnership, association, municipality or state agency.
- 67 PRIVATE SEWAGE SYSTEM – A sewage treatment and disposal system serving one (1) 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 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 (1) structure or a system located on a different parcel than the structure.
- 68 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.
- 69 REASONABLY SAFE FROM FLOODING – Means base flood waters will not inundate the land or damage structures to be removed from the floodplain and that any subsurface waters related to the base flood will not damage existing or proposed buildings.
- 70 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 (1%) percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BE.
- 71 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 one hundred (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 or not that alteration affects the external dimensions of the building.

- 72      STRUCTURE – Any manmade object with form, shape and utility, either permanently or temporarily attached to, placed upon or set into the ground, stream bed or lake bed, including, but not limited to, roofed and walled buildings, gas or liquid storage tanks, bridges, dams and culverts.
- 73      SUBDIVISION – Has the meaning given in §236.02(12), Wis. Stats.
- 74      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 fifty (50%) percent of the equalized assessed value of the structure before the damage occurred.
- 75      SUBSTANTIAL IMPROVEMENT – Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds fifty (50%) percent of the equalized assessed value of the structure before the improvement or repair is started. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.
- 76      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 in light of the purposes of the ordinance.
- 77      VARIANCE – An authorization by the board of adjustment or appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with dimensional standards (not uses) contained in the floodplain zoning ordinance.
- 78      VIOLATION – The failure of a structure or other development to be fully compliant with the floodplain zoning ordinance. 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.

- 79 WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.
- 80 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.
- 81 WELL – means an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

(2) **PUD PLANNED UNIT DEVELOPMENT OVERLAY DISTRICT.**

- (a) Primary Purpose and Characteristics. The Village Board of Trustees has determined that the Wisconsin Statutes grants the Village Board authority to create "planned development districts" as granted to cities pursuant to §62.23(7)(b), Wis. Stats. The PUD Planned Unit Development Overlay District, set forth herein, is intended to permit developments that will, over a period of time, be enhanced by coordinated area site planning and diversified location of structures. Such developments are intended to provide a safe and efficient system for pedestrian and vehicle traffic; to provide attractive recreation and open spaces as integral parts of the developments; to enable economic design in the location of public and private utilities and community facilities; and to ensure adequate standards of construction and planning. The PUD Overlay District under this Ordinance will allow for flexibility of overall development design with benefits from such design flexibility intended to be derived by both the developer and the community, while at the same time maintaining insofar as possible the land use density and other standards or use requirements set forth in the underlying basic zoning district. The unified and planned development of a site in a single or corporate ownership or control or in common ownership under the Unit Ownership Act set forth in Chapter 703 of the Wisconsin Statutes (condominiums) may be permitted by the Village board upon specific petition under this section of the ordinance and after public hearing with such development encompassing one (1) or more principle uses or structures and related accessory uses or structures when all regulations and standards as set forth in this section of the ordinance have been met.
- (b) Planned Unit Development Overlay District. (PUD) So as to ensure a maximum benefit to both the community and to developers and so as to provide for flexibility in planning in all the districts created under this Ordinance except for the A-1, A-2, A-3, A-4, R-1, R-2, R-6, R-12, C-1, C-2, FPO, and AEO districts, there is hereby created the Planned Unit Development Overlay District.
- (c) Principal, Accessory and Conditional Uses. Principal, accessory and conditional uses permitted in a Planned Unit Development Overlay District shall conform to uses permitted in the underlying

basic use district or districts. The Village Board may approve variances from the parking space, open space and loading area requirements prescribed by the underlying uses if the owner can demonstrate that the proposed parking spaces, open space and loading areas will adequately service the planned development upon recommendation for such variance from the Plan Commission.

- (d) **Ownership.** Areas designated as PUD Overlay Districts shall be under single or corporate ownership or control at the time of their creation.
- (e) **Minimum Area Requirements.** Areas designated as PUD Overlay Districts shall contain a minimum development area of:

<u>Principal Uses</u>	<u>Minimum Area of PUD</u>
Residential Planned Unit Development	10 acres
Commercial Planned Unit Development	10 acres
Industrial Planned Unit Development	10 acres
Mixed Use Planned Unit Development	10 acres
Agricultural Preservation Planned Unit Development	10 acres

- (f) **Minimum Sanitary Sewer Requirements.** All Planned Unit Developments shall be on a public sanitary sewer system, except for Agricultural Preservation Planned Unit Developments, which need not be on public sanitary sewer systems but which must then have soils adequate to support on-site septic systems.
- (g) **Pre-petition Conference and General Lay-out Concept Plan.** Prior to the official submission of the petition for the approval of a Planned Unit Development Overlay District, the owner or his agent making such petition shall meet with the staff of the Village Department of Planning and Development to discuss the scope and proposed nature of the contemplated development and data and other information as deemed appropriate and pertinent for presentation to the committee. At the pre-petition conference, the owner or agent shall present a general lay-out conceptional plan including drawings and sketches of the proposed development and figures or calculations that are pertinent to the development using as a general guideline the requirements set forth in these ordinances.
- (h) **Petition.** Following the pre-petition conference, the owner or his agent may file a petition with the Village Department of Planning and Development for approval of a Planned Unit Development Overlay District. Such petition shall be accompanied by the review fee required under Section ZN 2.02(7) of this Ordinance as well as the following information:
  - 1 A statement which sets forth the relationship of the proposed Planned Unit Development to any existing or proposed master plans or any adopted component thereof, and the general character of and the uses to be included in the proposed Planned Unit Development including the following information:



- a Total area to be included in the Planned Unit Development, area of open space, residential density computations, proposed number of dwelling units, population analysis, availability of or requirements for municipal services and any other similar data pertinent to a comprehensive evaluation of the proposed development.
  - b A general summary of the estimated value of structures and site improvement costs, including landscaping and special features of common open spaces.
  - c A general outline of the organizational structure of a property owner's association, which may be proposed to be established for the purpose of providing any necessary private services or maintenance of common open spaces.
  - d Any proposed departures from the standards of development as set forth in the Village zoning regulations, other Village regulations or administrative rules, or other Village or Village ordinances.
  - e The expected date of commencement, schedule of development by phases, and completion of physical development as set forth in the proposal.
  - f Notwithstanding the departures from lot area, setback, building separation; and modification of street standards and/or sidewalk and walkway requirements; no modifications shall be granted from the floodplain protection and wetland protection measures set forth in this Ordinance.
- 2 A detailed development site plan including:
- a A survey and legal description of the boundaries of the subject property included in the proposed Planned Unit Development and its relationship to surrounding properties prepared by a land surveyor registered by the State of Wisconsin.
  - b The location of public and private roads, driveways, and parking facilities.
  - c The size, arrangement, and location of any individual building sites and proposed building groups on each individual site.
  - d The location of institutional, recreational, and open space areas and areas reserved or dedicated for public uses, including schools, parks, and drainageways.
  - e The type, size, and location of all structures.
  - f General landscape treatment.

- g Architectural plans, elevation, and perspective drawings and sketches illustrating the design and character of the proposed structures.
  - h The existing and proposed location of public sanitary sewer and water supply facilities.
  - i The existing and proposed location of all private utilities or other easements.
  - j The characteristics of soils related to contemplated specific uses.
  - k Existing topography on the site with contours at no greater than two (2) foot intervals.
  - l Detail storm-water drainage plans prepared by a professional engineer registered by the State of Wisconsin.
  - m Anticipated uses of adjoining lands in regard to roads, surface water drainage, and compatibility with existing adjacent land uses.
  - n Any other data or information requested at the pre-petition conference.
- (i) Public Hearing. The Village Plan Commission before formulating its recommendations to the Village Board shall hold a public hearing pursuant to the requirements of Section ZN 8.01 of this Ordinance. Notice for such hearing shall include reference to the development plans filed in conjunction with the requested Planned Unit Development Overlay District.
- (j) Basis for Petition Approval.
- 1 The Village Plan Commission in making its recommendation to the Village Board and the Village Board in making its determination, shall find:
- a That the petitioners for the proposed Planned Unit Development Overlay District have indicated that they intend to begin the physical development of the Planned Unit Development within twelve (12) months following the approval of the petition and that the development will be carried out according to a reasonable construction schedule satisfactory to the Village.
  - b That the proposed Planned Unit Development Overlay District is consistent in all respects to the purpose of this section and to the spirit and intent of this Ordinance; is in conformity with any existing or proposed adopted master plans or any adopted components thereof; and, that the development would not be contrary to the general welfare and economic prosperity of the community.

- c That the proposed Planned Unit Development Overlay District is compatible with adjacent development in the immediate area, or that appropriate measures, such as a vegetative buffer, have been employed to reduce the visual impact on surrounding land uses.
- d The Village Plan Commission in making its recommendations and the Village Board in making its determination shall further find that:
  - 1) The proposed site is provided with adequate drain-age facilities for surface and stormwaters.
  - 2) The proposed site is accessible from public roads that are adequate to carry the traffic that can be expected to be generated by the proposed development.
  - 3) No undue constraint or burden will be imposed on public services and facilities, such as, but not limited to, fire and police protection, street maintenance, and maintenance of public areas by the proposed development.
  - 4) The streets and driveways on the site of the pro-posed development are adequate to serve the pro-posed development and do meet the minimum standards of all applicable ordinances or administrative regulations of the Village, whichever is more restrictive.
  - 5) Centralized public water and sewer facilities are provided.
  - 6) The entire tract or parcel of land to be included in a Planned Unit Development Overlay District is held under single ownership, or if there is more than one (1) owner, the petition for such Planned Unit Development Overlay District is considered as one (1) tract, lot or parcel and the legal description defines said Planned Unit Development as a single parcel, lot or tract and is jointly petitioned by the several owners. This requirement shall not be deemed to prevent further divisions of the land after creation of the Planned Unit Development Overlay District provided that all further divisions are in accordance with the restrictions placed on the particular Planned Unit Development.
- e That in the case of a proposed residential Planned Unit Development Overlay District:
  - 1) Such development creates an attractive residential environment of sustained desirability and economic stability, including structures in relation to terrain, consideration of safe pedestrian flow, ready access to recreational space, and coordination with overall plans for the Village wherein the Planned Unit Development is to be located.

- 2) The following table has been used and complied with for the following districts in determining the density of a development or site:

<u>District Zoning</u>	<u>Maximum Gross Density (dwelling units per acre)</u>	<u>Average Net Area Per Dwelling Unit (square feet)</u>
R-3	2.2	20,000
R-4	2.9	15,000
R-5	4.4	10,000
R-8	4.4	10,000
R-9	8.7	5,000
R-10	10.8	4,000
R-11	12.4	3,000

- 3) The Residential Planned Unit Development project is limited to development types as hereinafter set forth:
- a) Cluster developments, attached single-family dwellings, townhouses, and condominiums are permitted in the R-4, R-5 and R-8 districts but shall not exceed two (2) dwelling units per structure.
  - b) Cluster developments, townhouses, and condominiums are permitted in the R-9 district, but shall not exceed four (4) dwelling units per structure.
  - c) Cluster developments, townhouses, and condominiums are permitted in the R-10 district, but shall not exceed eight (8) dwelling units per structure.
  - d) Cluster developments, townhouses, and condominiums are permitted in the R-11 district, in which case, the Plan Commission may set limits on structural size and number of units in each structure.
- 4) Provision has been made for the installation of adequate public facilities and the continuing maintenance and operation of such facilities.
- 5) Provision has been made for adequate, continuing fire and police protection.
- 6) The population composition of the development will not have an adverse effect upon the individual Village's capacity to provide needed school or other municipal service facilities.

- 7) Adequate guarantee is provided for permanent preservation of open space areas as shown on the approved site plan either by private reservation and maintenance or by dedication to the public.

f That in the case of a proposed commercial Planned Unit Development Overlay District:

- 1) The economic practicality of the proposed development can be justified.
- 2) The proposed development will be adequately served by off street parking and truck service facilities.
- 3) The proposed development is adequately provided with and does not impose any undue burden on public services and facilities such as fire and police protection, street maintenance, and maintenance of public areas.
- 4) The locations for entrances and exits have been designated to prevent unnecessary interference with the safe and efficient movement of traffic on surrounding streets, and that the development will not create an adverse effect upon the general traffic pattern of the surrounding neighborhood.
- 5) The architectural design, landscaping, control of lighting, and general site development will result in an attractive and harmonious service area compatible with and not adversely affecting the property values of the surrounding neighborhood or area.

g That in the case of a proposed industrial Planned Unit Development Overlay District:

- 1) The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effects upon the property values of the surrounding neighborhood.
- 2) The proposed development will be adequately provided with and will not impose any undue burden on public services and facilities, such as, but not limited to, fire and police protection, street maintenance, and maintenance of public areas.
- 3) The proposed development will include adequate provisions for off street parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.

- 4) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

h That in the case of a proposed mixed use Planned Unit Development Overlay District:

- 1) The proposed mixture of uses (i.e. residential, commercial, industrial) will produce a unified composite which is compatible within the underlying districts and which as a total entity is compatible with the surrounding neighborhood.
- 2) The various types of uses (residential, commercial, industrial) conform to the general requirements for each use as hereinbefore set forth, applicable to projects of such use and character.
- 3) The operational character, physical plant arrangement, and architectural design of buildings will be compatible with the latest in performance standards and industrial development design and will not result in adverse effects upon the property values of the surrounding neighborhood.
- 4) The proposed development will be adequately provided with and will not impose any undue burden on public services and facilities, such as, but not limited to, fire and police protection, street maintenance, and maintenance of public areas.
- 5) The proposed development will include adequate provisions for parking and truck service areas and will be adequately served by rail and/or arterial highway facilities.
- 6) The proposed development is properly related to the total transportation system of the community and will not result in an adverse effect on the safety and efficiency of the public streets.

(k) Determination. The Village Board, after due consideration, may deny the petition, approve the petition as submitted, or approve the petition subject to additional conditions and restrictions. The approval of a Planned Unit Development Overlay District shall be based upon and include as conditions thereto adherence to the building, site, and operational plans for the development as approved by the Village Board.

(l) Changes and Additions. Any subsequent change or addition to the plans or uses shall first be submitted for approval to the Village Plan Commission and if in the opinion of either such

change or addition constitutes a substantial alteration of the original plan, a public hearing before the Plan Commission shall be required and notice thereof shall be given pursuant to the provisions of Section ZN 8.01 of this Ordinance, and said proposed alterations shall be submitted to the Village Board for approval.

- (m) Subsequent Land Division. The division of any land or lands within a Planned Unit Development Overlay District for the purpose of change or conveyance of ownership shall be accomplished pursuant to the land division regulations of the Village.
  - (n) Failure to begin development if no substantial construction has commenced as defined in Section ZN 2.02(3) of this Ordinance or no use established in the Planned Unit Development District within the time schedule submitted to the Village Board, the Village Department of Planning and Development shall petition the Village Board of Trustees for the purpose of rescinding the planned unit development overlay designation so as to allow the land in question to revert to its underlying zone. The procedures set forth in Section ZN 8.01 of this Ordinance, relating to the amendment of this Ordinance shall be adhered to in its discretion and for good cause, the Village Board may extend for a reasonable period of time, not to exceed one (1) year, the period for the beginning of construction or the establishment of a use. If the Planned Unit Development Overlay District is rescinded, the Department of Planning and Development shall remove said district from the official zoning map. Those zoning regulations applicable before the creation of said district shall then be in effect and no vested rights in the Planned Unit Development Overlay District shall be deemed to have occurred.
  - (o) List of adopted PUD Districts can be found in Appendix D.
- (3) **AO AIRPORT OVERLAY DISTRICT.**
- (a) Primary Purpose and Characteristics. It is the intent of the Village Board of Trustees in creating the Airport Overlay District to provide for the possibility of establishing a use district designed to coordinate the planning, development, and regulation of land uses in the vicinity of airports so as to insure that the uses are mutually compatible with the operation of the airport and that any public investment in an airport is protected and further that public safety, welfare, health and convenience is served.

So as to address the problems which are associated with airport development, this district is distinguished by regulations relating but not limited to, safety, density, height restrictions and noise levels.

It is recognized that it is neither possible nor practical to list all of the principal and accessory uses that are compatible with those listed below and therefore, it is intended that the following list of principal and accessory uses only be illustrative. Any individual aggrieved by a failure to list a particular principal or accessory use in this subsection shall have the right to file a petition with the Village Department of Planning and Development pursuant to Section ZN 7.01 of this Ordinance for a determination as to the similarity of the intended use with the principal and accessory uses listed below.

(b) Definitions. In this section:

- 1 "Airport affected area" means that area contiguous to the airport property in which mutually compatible land uses would be in the public interest. The total length of an airport affected area may not exceed five (5) times the length of an existing or planned runway, and an airport affected area may not extend beyond the end of the runway by a distance exceeding twice the length of the existing or planned runway. The width of an airport affected area may not exceed one-half (½) mile on either side of the center line of the existing or planned runway.
- 2 "Airport owner" means any city, village, town, Village, or combination thereof which owns an approved airport.
- 3 "Approved airport" means any airport or future airport site:
  - a which has been approved as an airport site by appropriate state and federal agencies;
  - b which is included in the state airport system plan; and
  - c to which the fee simple is vested in the airport owner.
- 4 "Mutually compatible uses" means those uses of land which neither create an airport hazard to the safe operation of aircraft using the airport, nor are in such a location relative to the airport that inhabitants might be unduly endangered or otherwise adversely affected by the lawful operation of aircraft using the airport.

(c) Procedures for Creation of Airport Overlay District, AOD.

- 1 Any airport owner may petition the Village Board of Trustees for the purpose of creating an Airport Overlay District pursuant to the provisions set forth in Section ZN 8.01 of this Ordinance, and
- 2 Prior to petitioning the Village Board of Trustees for the purpose of creating an Airport Overlay District, the airport owner shall prepare for presentation to the Village Plan Commission an airport affected area land use plan. Said plan shall be prepared in such a fashion so as to consider the social, economic, and environmental effects of the airport and airport operations on land in the vicinity of the airport and in the airport affected area and shall make provision for anticipated growth and coordination of planning efforts for other transportation modes for both passengers and freight. This plan shall reflect environmental, developmental and transportation goals for the area and shall be adopted by the airport owner. A copy of the land use plan, including maps and accompanying documents shall be submitted to the Secretary of the State Department of Transportation for review prior to submission to the Plan Commission. This plan shall



catalogue all existing land uses in the vicinity of the airport and in the airport affected area, project future characteristics involving the operation of the airport and the land requirements for said airport including the number and type of aircraft that will make use of the airport, the hours of operation and the necessary land acquisitions and easements needed for the safe operation of the airport. In addition, said plan shall delineate all noise zones and the type of uses that are both compatible and incompatible in said noise zones, and long-range estimates of noise impact. Said plan shall furthermore identify existing and future incompatible uses, designate alternative land use plans, and techniques for plan implementation, as well as evaluate the potential effects of these alternate land use plans and regulate techniques. The best alternative plan and technique shall be recommended.

Accompanying said plans shall be all necessary noise contour maps and compatibility charts and tables and height restriction maps necessary for the safe operation of the airport facility.

(d) Upon the creation of an Airport Overlay District pursuant to the provisions of Section ZN 8.01 of this Ordinance, navigational and meteorological structures shall be permitted and also the following principal uses shall be permitted provided they are permitted in the underlying basic use district and that there is no interference with existing or proposed navigational aids:

- 1 Agriculture, forestry, truck farming and other vegetable and plant crop cultivation, and roadside stands for the sale only of products grown on the premises.
- 2 Arboretum.
- 3 Auto storage areas.
- 4 Botanical gardens.
- 5 Car rental agencies.
- 6 Fish and bait hatcheries, and worm farms, including sale at wholesale or retail.
- 7 Game preserves.
- 8 Golf courses.
- 9 Greenhouses.
- 10 Marinas.
- 11 Nurseries, landscape.
- 12 Parking lots.

- 13 Picnic Areas.
  - 14 Public works and public utility facilities such as water pumping stations, plants and reservoirs, electric transmission lines and substations.
  - 15 Reservoirs.
  - 16 Riding academies, public and private stables.
  - 17 Sod farming.
  - 18 Water-treatment plants.
- (e) Upon the creation of the Airport Overlay District, only those accessory uses permitted in the underlying district shall be permitted provided, however, that there is no interference with existing or proposed navigational aids.
- (f) Upon the creation of the Airport Overlay District, only the following conditional uses shall be permitted provided they are permitted as either principal or conditional uses in the underlying district. (see also Section ZN 5.03(8), Airport Overlay Conditional Uses):
- 1 Aviation schools.
  - 2 Banking services.
  - 3 Bottling plants.
  - 4 Building materials, storage yards or buildings, including sales of equipment commonly used by contractors.
  - 5 Cemeteries, columbaria, crematories, and mausoleums, subject to the approval of the Wisconsin Board of Health and Board of Adjustment.
  - 6 Convention centers.
  - 7 Gas stations.
  - 8 Hotels and motels.
  - 9 Lumber yards, storage and sales.
  - 10 Night clubs.
  - 11 Office buildings.
  - 12 Recreational activities.

- 13 Restaurants.
  - 14 Service and light industries and related offices and showrooms that manufacture, compound, assemble, process, package, store and distribute goods and materials and are in general dependent upon raw materials refined elsewhere, including chemicals and allied products; food and beverage products; metal and metal products; textiles; bedding and fibers; wood and paper products; glass products; and plastic products.
  - 15 Sewage disposal plant.
  - 16 Shopping centers.
  - 17 Stone monument works.
  - 18 Terminals, (passenger, freight, taxi, bus).
  - 19 Warehouses and related showrooms and offices.
  - 20 Wholesale distribution centers, including storage buildings, open storage areas, and related offices and showrooms.
- (g) Special requirements. The following special requirements shall apply for all principal, accessory and conditional uses allowed in the Airport Overlay District:
- 1 Lighting.
    - a Except as may be permitted as an airport navigational aid, a pulsating, flashing, rotating, oscillating, or other type of lighting intended as an attention-getting device shall be expressly prohibited.
    - b Flood lights, spot lights, or other lighting device shall be so arranged or shielded as not to cast illumination in an upward direction above an imaginary line extended from the light source parallel to the ground.
    - c Any light which constitutes a "misleading light" within the meaning of TSO-N19 or such other regulations as may be thereafter duly adopted by the Civil Aeronautics Administration, is expressly prohibited.
  - 2 Radio and Electronic.
    - a Any radio or electronic device shall be permitted only in conjunction with a valid license therefore or other authorization as may be issued by the Federal Communications Commission.
    - b Any radio or electronic device, the operation of which would violate any rules or regulations of the Federal Communications Commission is expressly prohibited.

- 3 Smoke. Any operation or use which emits smoke, dust, or any visible fumes or vapors into the atmosphere shall be expressly prohibited.
- (h) Lot area, width, yards and sanitation requirements. Lot area, width, yard and sanitation requirements applicable in the underlying district shall apply in the Airport Overlay District.
  - (i) Height. Except for legal fences and farm crops, no structure shall be constructed, altered, located or permitted to remain after construction, alteration or location and no trees shall be allowed to grow to a height in excess of the height limit indicated on the "Height Restriction Maps" prepared in conjunction with the airport affected area land use plan provided for in Section ZN 4.08(3)(c)2 of this Ordinance.
  - (j) Noise. No principal, accessory or conditional use shall be permitted on a parcel unless the intended use is compatible with the sound levels expected to be generated on the parcel as shown on the Noise Contour Maps and compatibility charts and tables prepared in conjunction with the airport affected area land use plan provided for in Section ZN 4.08(3)(c)2 of this Ordinance.
  - (k) Amendment. Any amendment to the Airport Overlay District shall not be effective until such time as the airport owner has been notified of the proposed amendment and been given an opportunity to notify the Village Plan Commission of any adverse affect created by said amendment.
- (4) **RC RURAL CLUSTER DEVELOPMENT OVERLAY DISTRICT.**
    - (a) Primary Purpose and Characteristics. The purpose of the RC Rural Cluster Development Overlay District is to preserve rural landscape character, sensitive natural areas, farmland and other large areas of open land, while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide privacy for dwellings. Specific objectives are as follows:
      - 1 To maintain and protect rural character by preserving important landscape elements, including those areas containing unique and environmentally sensitive natural features such as woodlands, hedgerows, stream corridors, wetlands, floodplains, shorelands, prairies, ridge tops, steep slopes, and critical species habitat by setting them aside from development. Such areas are contained in primary environmental corridors as identified by the Southeastern Wisconsin Regional Planning Commission and are of particular significance for conservation.
      - 2 To preserve scenic views and to minimize views of new development from existing streets.
      - 3 To provide for the unified and planned development of clustered, single-family, low density residential uses, incorporating large areas of permanently protected common open space.

- 4 To provide for greater design flexibility in the siting of dwellings and other development features than would be permitted by the application of standard district regulations in order to minimize the disturbance of the rural landscape elements, scenic quality, and overall aesthetic value of the landscape.
  - 5 To increase flexibility and efficiency in the siting of services and infrastructure, by reducing street length, utility requirements, drainage requirements, and the amount of paving required for residential development, where possible.
  - 6 To create groups of dwellings with direct visual and physical access to common open space.
  - 7 To permit active and passive recreational use of common open space by residents of developments within this district and by the public, when appropriate.
  - 8 To reduce erosion and sedimentation by the retention of existing vegetation, and the minimization of development on steep slopes.
  - 9 To allow for the continuation of agricultural uses in those areas best suited for such activities and when such activities are compatible with adjoining residential uses.
  - 10 To permit various means for owning common open space and for protecting it from development in perpetuity.
  - 11 To create an attitude of stewardship for the land within common open space by requiring a land management plan for the common open space.
  - 12 To implement the objectives of any applicable adopted comprehensive plan or comprehensive plan component.
- (b) RC Rural Cluster Development District Designation. An RC Rural Cluster Development District designation may be placed on any site in the A-2, R-1 and C-2 Districts meeting the minimum tract size requirements specified in Section ZN 4.08(4)(g).
- (c) Principal Uses.
- 1 Clustered single-family detached dwellings.
  - 2 Single-family farmstead dwellings with associated agricultural structures as listed in Section ZN 4.08(4)(c)6f.
  - 3 Community living arrangements having a capacity for eight (8) or fewer persons and which shall be in conformance with all state statutory requirements.
  - 4 Essential services.

- 5 Foster family homes having less than four (4) foster children and not exceeding eight (8) total occupants and which are in conformance with all state statutory requirements.
- 6 Common open space for cluster development with uses permitted as follows:
  - a Conservation of land in its natural state (for example, woodland, fallow field, or managed meadow.)
  - b Game farm, fish hatchery, hunting and fishing preserve, wildlife sanctuary, forest preserve, or similar uses designated for the protection and propagation of wildlife.
  - c Agricultural uses, including the cultivation, harvesting and sale of crops and related farm products, the raising and sale of livestock or fowl, along with associated pasture and barnyards, orchards, nurseries, greenhouses and related horticultural activities.
  - d Pasture for recreational horses.
  - e Growing and sale of Christmas trees.
  - f Agricultural structures such as barns, silos, storage sheds, cribs, coops, and stables.
  - g Interior cluster group open space.
  - h Passive recreation, including, but not limited to, hiking trails, bicycle or bridle trails, picnic areas, community gardens, and lawn area.
  - i Active recreation, including, but not limited to, playing fields, playgrounds and courts.
  - j Parking areas where necessary to serve active recreation facilities.
  - k Easements for access, drainage, sewer and water lines, or other public purposes.
  - l Stormwater management facilities including detention and retention basins.
  - m Water supply and sewerage systems for individual lots, cluster groups, or the entire development.
  - n Utility and street rights-of-way except that their land areas shall not count toward the minimum open space requirement.

(d) The following uses and activities are prohibited in common open space:

- 1 Use of motor vehicles except on approved roads, driveways and parking areas. Maintenance, law enforcement, emergency and farm vehicles are exempt from this provision.
- 2 Cutting of healthy trees, regrading, cutting and filling, topsoil removal, altering, diverting or modifying water courses or water bodies, except in compliance with a land management plan for the tract, conforming to customary standards of forestry, erosion control and engineering.
- 3 Intensive animal feed lot operations.

(e) Permitted Accessory Uses.

- 1 Accessory structures such as detached garages, sheds and boathouses.
- 2 Home occupations and professional home offices.
- 3 Small wind energy system.
- 4 Solar energy system.
- 5 Swimming pools and spas (see also Section ZN 3.09).
- 6 Fences (see also Section ZN 3.08(2)).

(f) Conditional Uses.

- 1 Community living arrangements having nine (9) but not more than fifteen (15) persons which shall be in conformance with all state statutory requirements.
- 2 Model single-family homes and related real estate sales office located within the model unit.
- 3 Utility substations.
- 4 Large wind energy system.
- 5 Golf courses.
- 6 Community swimming pools.
- 7 Community center for the use of residents of the cluster development.

(g) Density and Dimensional Standards.

- 1 For residential dwelling with individual on-site sewage disposal absorption systems:

<b>Development Standard</b>	<b>A-2 District</b>	<b>R-1 District and C-2 District</b>
Minimum tract size	50 acres	25 acres
Maximum density [1]	1 du/10 acres	1 du/5 acres
Minimum lot area [2]	80,000 sq. ft.	40,000 sq. ft.
Minimum lot width [3]	200 feet	150 feet
Street yard	75 feet	50 feet
Shore yard	Not less than 75 feet from the ordinary high water mark of any navigable water	Not less than 75 feet from the ordinary high water mark of any navigable water
Side yard [4]	50 feet	25 feet
Rear yard	75 feet	50 feet
Accessory buildings setback and size regulations [5]	See Section ZN 3.14(7)	See Section ZN 3.14(7)
Minimum common open space [6]	60 percent	60 percent
Maximum building height (excluding agricultural structures)	35 feet	35 feet
Maximum building coverage (percentage of individual lot)	10 percent	10 percent

- a Existing dwellings that may or may not be part of a farmstead shall be counted towards the total density. For the purposes of this section, acres refers to gross land area including all lands within the tract, except existing street, railroad, and utility rights-of-way. Only twenty (20%) percent of wetlands and floodplain may be counted toward the calculation of density.
- b For an existing farmstead on a tract used for cluster development, the minimum lot area shall be five (5) acres or a lot large enough to accommodate all structures within a building envelope created by a one hundred (100) foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to two hundred (200) feet.
- c Lot frontage may be reduced on lots located on a cul-de-sac or curve to one hundred (100) feet of frontage in the A-2 District and eighty (80) feet in the R-1 and C-2 Districts provided there is at least two hundred (200) feet of width at the required setback line in the A-2 District and one hundred fifty (150) feet in the R-1 and C-2 Districts.
- d When dwelling units are not located on individual lots, such as in a condominium development, they shall be separated from one another by a minimum distance of one hundred (100) feet in the A-2 District and fifty (50) feet in the R-1 and C-2 Districts.



- e Accessory buildings are not permitted in front yards.
- f In the calculation of common open space areas, the following shall be excluded: private lot areas, public or private street and highway rights-of-way, railroad and utility rights-of-way, parking areas, and areas not meeting the requirements of Section ZN 4.08(4)(j)9.

2 For residential dwellings with public sanitary sewer:

<b>Development Standard</b>	<b>A-2, R-1 and C-2 Districts</b>
Minimum tract size	A-2 District: 50 acres R-1 and C-2 Districts: 25 acres
Maximum density [1]	A-2 District: 1 du/10 acres R-1 and C-2 Districts 1 du/5 acres
Minimum lot area [2]	20,000 square feet
Minimum lot width [3]	100 feet
Street yard	30 feet
Shore yard	Not less than 75 feet from the ordinary high water mark of any navigable water
Side yard [4]	10 feet minimum one side 20 feet both sides
Rear yard	25 feet
Accessory building setback from side and rear lot lines [5]	See Section ZN 3.14(7)
Minimum common open space [6]	70 percent
Maximum building height (excluding agricultural structures)	35 feet
Maximum building coverage (percentage of individual lot)	15 percent

- a Existing dwellings that may or may not be part of a farmstead shall be counted towards the total density. For the purposes of this section, acres refers to gross land area including all lands within the tract, except existing street, railroad, and utility rights-of-way. Only twenty (20%) percent of wetlands and floodplain may be counted toward the calculation of density.
- b For an existing farmstead on a tract used for cluster development, the minimum lot area shall be five (5) acres or a lot large enough to accommodate all structures within a building envelope created by a one hundred (100) foot setback from all sides of the lot, whichever is larger. For farmsteads with livestock, the setback shall be increased to two hundred (200) feet.
- c Lot frontage may be reduced on lots located on a cul-de-sac or curve to fifty (50) feet of frontage provided there is at least one hundred (100) feet of width at the required setback line.

- d When dwelling units are not located on individual lots, such as in a condominium development, they shall be separated from one another by a minimum distance of sixty (60) feet.
- e Accessory buildings are not permitted in front yards.
- f In the calculation of common open space areas, the following shall be excluded: private lot areas, public or private street and highway rights-of-way, railroad and utility rights-of-way, parking areas, and areas not meeting the requirements of Section ZN 4.08(4)(j)(9).

(h) Separation Distances for Cluster Groups.

- 1 The outer boundaries of all cluster groups shall conform to the following separation distances:

From abutting arterial street proposed rights-of-way or from scenic roads, if defined in a Village comprehensive plan of comprehensive plan component	100 feet
From all other external street proposed rights-of-way	50 feet
From all tract boundaries	100 feet
From cropland or pasture land	100 feet
From barnyards or buildings housing livestock	300 feet
From other cluster groups	100 feet
From wetlands, floodplains, or watercourses	35 feet
From active recreation areas, such as courts or playing fields	100 feet

- 2 All separation areas for cluster groups along existing streets shall be landscaped in accordance with Chapter 18 of the Village ordinances in order to block views of new residential development, preserve scenic views, and to protect rural landscape character.
- 3 The dimensional standards in Section ZN 4.08(4)(h)1 may be reduced as follows:
  - a The separation distances along existing arterial streets and tract boundaries may be reduced to a minimum of fifty (50) feet if the applicant can demonstrate that existing vegetation, topography or a combination of these form an effective visual screen.
  - b All other separation distances may be reduced up to fifty (50%) percent if the applicant can demonstrate that such reduced setbacks improve the plan's compliance with the cluster group design standards in Section ZN 4.08(4)(j), the intent of this Ordinance, and the objectives of any applicable comprehensive plan or comprehensive plan component.

(i) Design Standards for Cluster Groups.

- 1 All dwelling shall be grouped in clusters groups, each of which shall contain at least two (2) but not more than twelve (12) units and shall be surrounded by common open space.
- 2 Cluster groups may contain more than twelve (12) units, and cluster groups may be assembled into larger groupings not separated by common open space, provided that the applicant can demonstrate that such an alternative plan is more appropriate for the tract and will meet both the general intent and design standards of this Ordinance.
- 3 A plat may contain one (1) or more cluster groups.
- 4 Cluster groups shall be defined by the outer perimeter of contiguous lotted areas or abutting streets, and may contain lots, streets, and interior open space. When the development does not contain individual lots, as in a condominium, the outer perimeter shall be defined as an area encompassed by a line drawn around the units, no point of which is closer to any unit than one hundred (100) feet.
- 5 The outer boundaries of each cluster group shall meet the separation distances specified in Section ZN 4.08(4)(h).
- 6 Cluster groups shall be defined and separated by common open space in order to provide direct access to common open space and privacy to individual lot or yard areas. Cluster groups may be separated by streets if the street right-of-way is designed as a boulevard.
- 7 All lots in a cluster group shall take access from interior streets.
- 8 All lots in a cluster group shall abut common open space to the front or rear for a distance of at least fifty (50) feet. Common open space across a street shall qualify for this requirement.
- 9 In locating cluster groups, disturbance to woodlands, hedgerows, and individual mature trees shall be minimized. However, when the objective is to preserve prime agricultural soils and large areas of contiguous land suitable for agricultural use, dwellings may be located within woodlands, provided that no more than twenty (20%) percent of a single wooded lot is cleared for the construction of a dwelling, driveway, garage, storage building, well, and onsite soil absorption system.
- 10 Street trees shall be required in cluster groups at a minimum rate of one (1) two (2) inch caliper tree per dwelling unit and shall comply with the requirements of Chapter 18 of the Village Ordinances.

(j) Design Standards for Common Open Space

- 1 The location of common open space shall be consistent with the objectives of any applicable comprehensive plan or comprehensive plan component.

- 2 All open space areas shall be part of a larger contiguous and integrated open space system. At least seventy-five (75%) percent of the common open space shall be contiguous to another common open space area. For the purpose of this section, contiguous shall be defined as located within one hundred (100) feet across which access is possible, for example on opposite sides of an internal street.
- 3 Common open space shall, to the greatest extent possible, protect site features identified in the site inventory and analysis as having particular value in the context of preserving rural character, in compliance with the intent of this Ordinance. Primary and secondary environmental corridors and isolated natural areas as identified by the Southeastern Wisconsin Regional Planning Commission are of particular significance for protection.
- 4 Natural features shall generally be maintained in their natural condition, but may be modified to improve their appearance, or restore their overall condition and natural processes, as recommended by professionals in the area being modified. Permitted modifications may include woodland management, reforestation, meadow management, wetlands management, stream bank protection, and buffer area landscaping.
- 5 All wetland, floodplain, unique wildlife habitat areas, steep slopes over twelve (12%) percent, one hundred (100%) percent of lowland environmental corridor and at least eighty (80%) percent of upland primary environmental corridors shall be contained in common open space.
- 6 Common boundaries with existing or future open space on adjacent tracts, when shown in an applicable comprehensive plan or comprehensive plan component, shall be established whenever possible.
- 7 To preserve scenic views, ridge tops and hill tops should be contained within common open space wherever possible. Trees shall not be removed from ridge tops or hill tops.
- 8 At least eighty (80%) percent of the area of existing woodlands shall be contained within common open space; twenty (20%) percent of the area of existing woodlands may be used for lot areas and residential development. This limitation may be exceeded under the following conditions:
  - a The site is primarily wooded and development at permitted density would not be possible without encroaching further on woodlands.
  - b Any encroachment on woodlands beyond twenty (20%) percent shall be the minimum needed to achieve maximum permitted density.

- 9 No common open space shall be less than ten thousand (10,000) square feet in area, with the exception of landscape islands in cul-de-sac streets, and not less than thirty (30) feet in width at any point. Open space not meeting this standard shall not be counted toward the total required percentage of common open space.
- 10 The boundaries of common open space shall be marked by natural features wherever possible, such as hedgerows, edges of woodlands, streams, or individual large trees. Where no such natural demarcations exist, additional plantings, fences, or other landscape features shall be added to enable residents or the public, if applicable, to distinguish where common open space ends and private lot areas begin. Where structural demarcations, such as fences or fence posts, are used, they shall be the minimum needed to accomplish the objective.
- 11 Trails in common open space that are located within fifty (50) feet of homes in cluster groups shall be identified by plantings, fences, or other landscape features.
- 12 Under no circumstances shall all common open space be isolated in one (1) area of the development. Common open space shall be distributed appropriately throughout the development to properly serve and enhance all dwelling units, cluster groups, and other common facilities.
- 13 Common open space shall include lands located along existing public roadways in order to preserve existing rural landscape character as seen from these roadways, and shall, in no case, contain less than the required buffer, setback area, or separation distance.
- 14 Safe and convenient pedestrian access and access for maintenance purposes shall be provided to common open space areas that are not used for agricultural purposes, in accordance with the following:
  - a At least one (1) access point per cluster group shall be provided, having a width equal to or greater than the minimum width of a lot within the cluster group. This width may be reduced to no less than fifty (50) feet if the applicant can demonstrate that, due to natural site constraints, meeting the lot width requirement would run counter to the objectives of this Ordinance.
  - b Access to common open space used for agriculture may be restricted for public safety and to interference with agricultural operations.

(k) Ownership and Maintenance of Common Facilities and Open Space.

- 1 The following methods may be used, either singly or in combination, to own common facilities. Common facilities shall not be transferred to another entity except for transfer to another method of ownership permitted under this section, and then only when there is no change in the common facilities. Ownership methods shall conform to the following:

- a Homeowners Association. Common facilities shall be held in common ownership as undivided proportionate interests by the members of a homeowners association, subject to the provisions set forth herein. The homeowners association shall be governed according to the following:
- 1) The applicant shall provide to the Village Department of Planning and Development a description of the organization, including its bylaws, and all documents governing maintenance requirements and use restrictions for common facilities.
  - 2) The organization shall be established by the owner or applicant and shall be operating (with financial subsidy by the applicant, if necessary) prior to the sale of any dwelling units in the development.
  - 3) Membership in the organization shall be mandatory for all purchasers of dwelling units therein and their successors and assigns.
  - 4) The organization shall be responsible for maintenance and insurance of common facilities.
  - 5) The members of the organization shall share equitably the costs of maintaining, insuring, and operating common facilities.
  - 6) The organization shall have or hire adequate personnel to administer, maintain, and operate common facility.
  - 7) The applicant for any tract proposed to contain common facilities shall arrange with the Village Assessor a method of assessment of the common facilities which will allocate to each to each tax parcel in the development a share of the total tax assessment for such common facilities. Real estate taxes shall be paid by the individual unit owner directly to the Village.
  - 8) Written notice of the proposed transfer of common facilities by the homeowners association or the assumption of maintenance of common facilities must be given at all members of the organization and to the Village at least thirty-nine (39) days prior to such event.
- b Condominium. Common facilities shall be controlled through the use of condominium agreements. Such agreements shall be approved by the Village Attorney and shall be in conformance with the "Condominium Ownership Act" of 1977 (Chapter 703, Wisconsin Statutes), as amended. All common open space and other common facilities shall be held as "common element" by the unit owners in the form of undivided percentage interests in accordance with the condominium documents. An association of unit owners shall be formed to govern the affairs of the condominium and membership shall be mandatory.

- c Fee simple dedication to a public agency. The Village or other public entity acceptable to the Village may, but shall not be required to, accept any portion of the common facilities, provided that:
- 1) There shall be no cost of acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
  - 2) Any facilities so dedicated shall be accessible to the residents of the Village, if the Village so chooses;
  - 3) The Village or other public entity shall maintain such facilities.
  - 4) The residents of the development shall hold a conservation easement on the land and facilities so dedicated, protecting the common open space from development in perpetuity.
- d Dedication of conservation easements to a public agency. The Village or other public agency acceptable to the Village may, but shall not be required to, accept easements for public use of any portion of the common facilities, title of which is to remain in private ownership, provided that:
- 1) There shall be no cost of easement acquisition (other than costs incidental to the transfer of ownership, such as title insurance);
  - 2) A satisfactory maintenance agreement shall be reached between the owner and the Village.
  - 3) Lands under a Village easement may or may not be accessible to the residents of the Village.
- e Fee simple dedication to a private conservation organization. An owner may dedicate any portion of the common facilities to a private, not-for-profit conservation organization, provided that:
- 1) The organization is acceptable to the Village and is a bona fide conservation organization;
  - 2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
  - 3) A maintenance agreement acceptable to the Village is established between the owner and the organization.
- f Transfer of easements to a private conservation organization.

- 1) The organization is acceptable to the Village and is a bona fide conservation organization;
  - 2) The conveyance contains appropriate provisions for proper reverter or retransfer in the event that the organization becomes unwilling or unable to continue carrying out its functions.
  - 3) A maintenance agreement acceptable to the Village is established between the owner and the organization.
- g Ownership retained by the original landowner.
- 1) The Village and the residents of the development shall hold conservation easements on the land protecting it from any further development.
  - 2) Resident access to the land is limited only by agreement of the residents of the development, as indicated by documents signed at the time of purchase of individual dwelling units.
- h Other methods acceptable to the Village Department of Planning and Development.
- 2 Maintenance and operation of common facilities.
- a A plan and narrative for the use, maintenance, and insurance of all common facilities, including provisions for funding, shall be provided to and approved by the Village Department of Planning and Development prior to preliminary plan approval. Such plan shall:
- 1) Define ownership;
  - 2) Establish necessary regular and periodic operation and maintenance responsibilities, including mowing schedules, weed control, planting schedules, clearing and cleanup.
  - 3) Estimate staffing needs, insurance requirements, and other associated costs and define the means for funding the same on an on-going basis.
  - 4) At the discretion of the Village Department of Planning and Development, the applicant may be required to escrow sufficient funds for the maintenance and operation costs of common facilities for a maximum of one (1) year.



- b In the event that the organization established to own and/or maintain common facilities, or any successor organization thereto, fails to maintain all or any portion of the aforesaid common facilities in reasonable order and condition in accordance with the development plan and all applicable laws, rules and regulations, the Village may serve written notice upon such organization, and upon the residents and owners of the uses related thereto, setting forth the manner in which the organization has failed to maintain the aforesaid common facilities in reasonable condition. Such notice shall set forth the nature of corrections required and the time within which the corrections shall be made. Upon failure to comply within the time specified, the organization, or any successor organization, shall be considered in violation of this Ordinance, and any permits may be revoked or suspended. The Village may enter the premises and take corrective action.
    - c The costs of corrective action by the Village shall be assessed ratably, in accordance with tax assessments, against the properties that have the right of enjoyment of the common facilities and shall become a lien on said properties. The Village, at the time of entering upon such common facilities for the purpose of maintenance, shall file a notice of such lien in the office of the Village Register of Deeds upon the properties affected by such lien.
- 3 Leasing of common open space lands. Common open space lands may be leased to another person or other entity for use, operation, and maintenance, provided that:
  - a The residents of the development shall at all times have access to such leased lands, except in the case of lease for agricultural purposes, in which case the residents, with their agreement, may be restricted from accessing the lands.
  - b The common open space lands to be leased shall be maintained for the purpose set forth in the ordinance.
  - c The operation of such leased open space lands may be for the benefit of the residents of the development only, or may be open to the public, if so determined by the residents.
  - d The lease, and any transfer of assignment thereof, shall be subject to the approval of the Village Board.
  - e Lease agreements so entered upon shall be recorded in the office of the Village Register of Deeds within thirty (30) days of their execution, and a copy of the recorded lease shall be filed with the Village Board.

- 4 Conservation. Common open space shall be restricted in perpetuity from further subdivision and/or land development by deed restriction, conservation easement, or other agreement in a form acceptable to the Village Department of Planning and Development and duly recorded in the office of the Village Register of Deeds.

## **CHAPTER 5**

### **EXCEPTIONS AND ACCOMMODATIONS**

ZN 5.01	Modifications and Exceptions
ZN 5.02	Non-Conforming Lots, Structures and Uses
ZN 5.03	Conditional Uses



## **ZN 5.01 MODIFICATIONS AND EXCEPTIONS.**

### **(1) HEIGHT EXCEPTIONS.**

The following structures or parts thereof are allowed to exceed the height limitations set forth in the several districts as set forth in this section unless restrictions are provided pursuant to the issuance of a conditional use permit under Section ZN 5.03 of this Ordinance:

- (a) Architectural Projections. Spires, belfries, steeples, cupolas, domes, parapet walls, chimneys and flues shall not exceed the height required by the district by more than the distance from the nearest lot line provided that such projection is firmly anchored or affixed to the structure.
- (b) Communication Structures. Radio and television transmission and relay tower, cellular and digital communication towers (mobile service support structures as defined in §66.0404(1) (n), Wis. Stats.), and aerials provided however, that said structures shall not exceed in height their distance from the nearest lot line unless designed to collapse within a smaller area as evidence by an engineering certification submitted to Planning & Development.
- (c) Essential Services. Utility poles, water towers, standpipes, electric power and communication transmission lines with the provision, however, that said structures are exempt from the height limitations of this Ordinance.
- (d) Special Structures. Elevator penthouses, gas tanks, grain elevators, observation towers, scenery lofts, manufacturing equipment and necessary mechanical appurtenances, cooling towers, fire towers, substations and smoke stacks may be exempted from the height limitations of this Ordinance.
- (e) Other Structures. Any structure located within an area surrounding an existing airport and which is subject to additional height regulations, shall not exceed the heights therein established.

### **(2) YARDS**

The following structures or parts thereof shall be allowed to project into or to be constructed in a required yard within the area otherwise prohibited by a building yard line unless restrictions are provided pursuant to the issuance of a conditional use permit under Section ZN 5.03 of this Ordinance:

- (a) Awnings and canopies not to exceed four (4) feet into any yard
- (b) Balconies not to exceed six (6) feet into any rear yard or side yard and not closer than three (3) feet to any lot line. Balconies are not permitted to project into a street yard or shore yard.
- (c) Bay windows not to exceed four (4) feet into any yard.
- (d) Belt courses and ornaments not to exceed three (3) feet into any yard.
- (e) Chimneys, flues, not to exceed two (2) feet into any yard

- (f) Clothesline posts (rear or side yard only)
- (g) Decks not to exceed ten (10) feet into any required rear yard or side yard, and not closer than five (5) feet to any side lot line or fifteen (15) feet to any rear lot line.
- (h) Driveways shall not be closer than two (2) feet to any side lot line.
- (i) Eaves not to exceed three (3) feet into any yard
- (j) Essential Services, utilities, electric power and communication transmission lines are exempt from the yard requirements of this Ordinance.
- (k) Fire escapes not projecting into the required rear or side yard by more than six (6) feet and not closer than three (3) feet to any lot line.
- (l) Fences, walls and hedges in accordance with Section ZN 3.08 of this Ordinance. Where fences on adjoining properties existing prior to September 1, 1984, are located closer than two (2) feet to a public right-of-way, the applicant may construct a fence with an equal encroachment upon the required setback.
- (m) Flagpoles in any yard
- (n) Garbage containers, non-permanent (rear yard only)
- (o) Guardhouse or gatehouse or bus shelters in any street yard
- (p) Landscape features such as sun dials, terraces, (open), ornamental lights, birdbaths, etc.
- (q) Mailbox located in highway right-of-way
- (r) Off-street parking lots are permitted in rear yards in all districts (except one- and two- family residential districts) and in front and side yards in the business and industrial districts provided the parking shall not be closer than twenty (20) feet to the public right-of-way if the business or industrial district abuts a residential district and not closer than ten (10) feet to a lot line if the business or industrial district abuts a residential district.
- (s) Open or enclosed porches shall not extend into or encroach upon any setback requirement.
- (t) Overhanging Roof, eaves, gutter, cornice or other architectural feature not to exceed three (3) feet.
- (u) Patios are permitted in any yard except street yards and shore yards and shall be located at least five (5) feet from any side or rear lot line.
- (v) Planting boxes into any yard

- (w) Recreational apparatus (except swimming pools and tennis courts) (rear and side yard only) such as playground equipment
- (x) Satellite dish antennas in excess of two (2) feet in diameter shall be at least five (5) feet from a side or rear lot line. Satellite dish antennas in excess of two (2) feet in diameter shall not be located in a street yard or shore yard. Freestanding hobby radio towers not more than fifty (50) feet in height may be located in a side or rear yard only, and guy wires must be at least five (5) feet from any side or rear lot line in a residential district.
- (y) Sidewalks, driveways, and steps for access purposes into any yards
- (z) Signs (in accordance with Section ZN 3.07 of this Ordinance)
- (aa) Steps, stairs (entry) and landings to a dwelling, (uncovered and non-enclosed) not to project more than four (4) feet (landing not to exceed four (4) feet by six (6) feet) into the street yard or shore yard; no closer than three (3) feet to any side lot line and no closer than fifteen (15) feet to any rear lot line.
- (bb) Structural steps and stairs in the shore yard necessary for access to the lake shall not exceed five (5) feet in width, and any necessary landings shall not exceed thirty-two (32) square feet in area (see Section ZN 3.10(4)).
- (cc) Trees, shrubs, flowers and other plants, in accordance with the vision requirements of Section ZN 3.06(1) of this Ordinance.
- (dd) Yard and service lighting fixtures, poles into any yard
- (3) **AVERAGE STREET YARDS AND SHORE YARDS.**

The required street yard may be decreased in any residential or business districts to the average of the existing street yard of the abutting structures within two hundred (200) feet of said property. But in no case less than thirty (30) feet from the right-of-way of a federal, state or county trunk highway nor less than twenty (20) feet from all other roads.

The required shore yards may be decreased in any shoreland jurisdictional area to the average of the existing shore yards of the abutting structures on each side, but in no case less than fifty (50) feet.

An abutting vacant lot may be used as an existing seventy-five (75) foot setback when averaging in the shoreland area.

(4) **NOISE.**

Sirens, whistles, and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this Ordinance.

(5) **CORNER LOTS.**

Each corner lot shall have two (2) street yards, one (1) side yard, and one (1) rear yard. The side and rear yard are interchangeable for setback purposes.

## **ZN 5.02 NON-CONFORMING LOTS, STRUCTURES AND USES.**

(1) **INTENT.**

Within the Districts established by this Ordinance or amendment thereof, there may exist lots, structures and uses of land and structures which were lawful before this Ordinance was enacted or amended, but which would be prohibited in the future under the terms of this Ordinance or amendment.

It is the intent of the Village Board of Trustees to permit these non-conforming lots, structures and uses existing as of the effective date of this Ordinance or amendment thereof to remain and continue in accordance with the provisions hereinafter set forth until they are removed by economic forces or otherwise. It is not the intent of this section to encourage the survival of non-conformities since it has been determined that they are incompatible with the character of the districts involved, or to permit non-conformities to be enlarged upon, expanded, or extended except as provided for herein. Existing non-conformities shall not be used to justify adding structures or uses prohibited elsewhere in the same district.

It is the further intention of the Village Board of Trustees that the guidelines be set for the purpose of determining:

- (a) That the non-conforming lot, structure or use existed prior to the effective date of this Ordinance or amendment thereto;
- (b) The ways in which the right of the non-conforming lot or structure to remain can be served and the ways in which the right to continue non-conforming uses can be lost;
- (c) The extent of permissible variation in the non-conforming lot, structure and use; and,
- (d) The devices available for eliminating such non-conforming lots, structures and uses.

(2) **DEFINITIONS.**

- (a) Assessed value. The full market value placed upon the structure or lot by the Village Assessor as of the date that the non-conformity came into being, that is, the effective date of this Ordinance or amendment thereto. Such valuation by the Village assessor shall be prima facie evidence of the assessed value of the structure or lot.
- (b) Legally existing. A lot, structure or use existing on the effective date of this Ordinance or amendment thereto which was created, built or established in accordance with zoning and land



use regulations in effect in the Village wherein the parcel is located immediately prior to the effective date of this Ordinance or amendment thereto or a lot, structure or use for which a zoning permit was issued prior to the effective date of this Ordinance or amendment thereto in accordance with the provision of Section ZN 1.02(5) of this Ordinance.

- (c) **Non-conforming Lot.** A non-conforming or substandard lot is defined as a parcel of land legally created prior to the effective date of this Ordinance having frontage on a public street, easement of record or other officially approved means of access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.
- (d) **Non-conforming Structure.** A non-conforming structure is one which was legally constructed prior to the effective date of this Ordinance or subsequent amendment thereto, which would not be permitted as a new structure under the terms of this Ordinance or amendment thereto because the structure is not in conformance with the yards, height, coverage, or floor area ratio requirements of the district in which it is located. A structure located on a non-conforming lot shall not be classified as a non-conforming structure solely because of insufficient lot area or width.
- (e) **Non-conforming use.** A non-conforming use is an activity utilizing land or structures or both legally established prior to the effective date of this Ordinance or subsequent amendment thereto, which would not be permitted as a new use in the district in which it is located under the terms of this Ordinance.

(3) **CURRENT RECORD OF NON-CONFORMING USES.**

- (a) The Village Department of Planning and Development shall make a record immediately after the approval of this Ordinance or amendment thereto, or change in district boundaries approved by the Village Board, all lands, premises and buildings used for purposes not conforming to the regulations applicable to the district in which they are situated. Such records shall include the nature and extent of the uses therein, the names and addresses of the owner or occupant or both, extent of the non-conformities, the assessed value of the land and structures thereon at the time of its becoming a non-conforming lot, structure or use and the cost of all modifications or additions which have been permitted.

(4) **BURDEN OF PROOF.**

Any property owner asserting as a defense to a charge of violating this Ordinance that his property was a valid non-conforming use has the burden of demonstrating to a reasonable certainty by the greater weight of credible evidence that:

- (a) The non-conforming use was legally in existence at the time the ordinance was passed or amended, and

- (b) That the use of the property prior to the ordinance was so active and actual that it can be said the property owner acquired a vested interest in its continuance. For purposes of this Ordinance, a property owner shall be deemed to have a vested right in the use of his property where that use at the time of the effective date of this Ordinance or amendment thereto is both active and actual (non-contemplated) and a substantial degree of activity or expense had been undertaken prior to the effective date of this Ordinance or amendment thereto. Permits issued prior to the existence of this Ordinance shall be deemed to have created a vested right in the property owner to the extent provided in Section ZN 1.02(5) of this Ordinance.
- (c) That the use is substantially the same use that existed prior to the enactment of the ordinance or amendment thereto.

(5) **EXISTING VACANT NON-CONFORMING LOTS.**

In any residential, upland conservancy or agricultural district, a one-family detached dwelling and its accessory structures may be erected on any vacant non-conforming lot provided that all requirements of the Village Ordinances are met:

- (a) Non-conforming lots shall have the following minimum width, area and setbacks:

Lot	Width	Minimum	40 feet (public sewerage) 50 feet (private sewage system)
	Area	Minimum	4,000 square feet (public sewerage) 6,000 square feet (private sewage system)
	Setbacks	Street	The minimum required in the district except as provided in Section ZN 5.01(3) of this Ordinance
		Rear	Minimum 25 feet from lot line
		Side	Minimum 16% of the lot width on each side, but not less than 5 feet from lot line

- (b) Non-conforming corner lots shall have the minimum setback requirements:

Lot Width	40 feet through 49 feet	
	Setbacks	<b>Primary street yard</b> – minimum as required in the district <b>Secondary street yard</b> – 26% of the lot width <b>Side yard</b> – 12.5% of the lot width <b>Rear yard</b> – 25 feet
Lot Width	50 feet through 59 feet	
	Setbacks	<b>Primary street yard</b> – minimum as required in the district <b>Secondary street yard</b> – 32% of the lot width <b>Side yard</b> – 16% of the lot width <b>Rear yard</b> – 25 feet
Lot Width	60 feet through 65 feet	
	Setbacks	<b>Primary street yard</b> – minimum as required in the district <b>Secondary street yard</b> – 38% of the lot width <b>Side yard</b> – 10 feet <b>Rear yard</b> – 25 feet

- (c) Driveways shall be a minimum of twenty (20) feet in length starting from the right of way line and shall access a Village road rather than a Village or state trunk highway.
- (d) Non-conforming lots or parcels in the shoreland that were legally created and met minimum area and minimum average width requirements when created or after having been enlarged, but does not meet current lot size requirements, may be used as a building site if all of the following apply:
- 1 The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
  - 2 The substandard lot or parcel is developed to comply with all other ordinance requirements.

(6) **COMMON OWNERSHIP OF ABUTTING NON-CONFORMING LOTS.**

Non-conforming lots of record owned by the same individual or individuals shall be combined prior to the issuance of a zoning permit.

(7) **EXISTING NON-CONFORMING STRUCTURES** (For Floodplain Non-conforming Structures see Section ZN 5.02(10)).

The use of a structure existing at the time of the adoption or amendment of this Ordinance may be continued although the structure's size or location does not conform with the established lot area and

width, building setback line along streets and highways, or the yard, height, parking, loading, or access provisions of this Ordinance.

Non-conforming structures which encroach upon the yard requirements of this Ordinance, but which met yard requirements of the applicable zoning ordinance at the time of construction, may be structurally enlarged or expanded if the existing structure is located at a minimum of at least fifty (50%) percent of the minimum setback requirement of all yard setback requirements and further provided that the alteration does not create a greater degree of encroachment on yard, height, parking, loading, or access requirements. Placement of a new foundation or basement under an existing non-conforming structure shall be allowed as long as no further encroachment is permitted. Non-conforming structures which are located less than fifty (50%) percent of the minimum setback requirement from one (1) or more of their yard setback requirements may be structurally enlarged or expanded so long as all four (4) sides of the enlargement or expansion are located at least fifty (50%) percent of the minimum setback requirement. This shall not constitute an allowance to make an existing conforming yard setback non-conforming, make an existing non-conforming yard setback more non-conforming or deviate from a height standard in this Ordinance.

When a non-conforming structure is damaged by fire, explosion, violent wind, or other calamity or is intentionally dismantled, to the extent of more than fifty (50%) percent of its assessed value as defined in Section ZN 5.02(2)(a) of this Ordinance, it shall not be restored except so as to comply with all provisions of this Ordinance provided under §59.69(10m), Wis. Stats.

Non-conforming structures in shoreland areas damaged or destroyed after, October 14, 1997, by violent wind, fire, flood, or vandalism may be reconstructed or repaired, as provided under §59.692(1s), Wis. Stats., to the size, location, and use it had immediately before the damage occurred if the landowner can establish that the damage was not due to a deliberate act by the landowner or by his or her agent, or due to general deterioration or dilapidated condition.

A non-conforming structure shall not be moved or relocated to any other location on the lot unless such structure is made to conform to all regulations of the district in which it is located.

**(8) EXISTING NON-CONFORMING USES** (For Floodplain Non-Conforming Uses see Section ZN 5.02(10)).

The non-conforming use of a structure, land, or water existing on the effective date of adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance, except that:

The alteration or structural repair of, or addition to any existing structure being used for a non-conforming use, in excess of fifty (50%) percent of the assessed value as defined in Section ZN 5.02(2)(a) of this Ordinance, is prohibited.

The non-conforming use of a structure may be changed to a use of the same or more restricted classification, but where the non-conforming use of a structure is hereafter changed to a use of a more restricted classification, it shall not thereafter be changed to a use of a less restricted classification.

When a structure being used for a non-conforming use is damaged by fire, explosion, flood, or other calamity, to the extent of more than fifty (50%) percent of its assessed value, as defined in Section ZN 5.02(2)(a) of this Ordinance, it shall not be restored except so as to comply with the use provisions of this Ordinance. If a non-conforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land, or water shall conform to the provisions of this Ordinance.

Parcels containing a non-conforming use of land or water may be maintained or repaired including grading, paving, and surfacing, or the repair and replacement of bumper or wheel stops, fences, screening and drainage ways, provided that the amount of land, water or storage (i.e. vehicles, equipment and/or materials) devoted to such non-conforming use as it existed prior to the date of this Ordinance is not extended, enlarged, or moved.

**(9) CHANGES AND SUBSTITUTIONS.**

Once a non-conforming use or structure has been changed or altered so as to comply with the provisions of this Ordinance, it shall not revert back to a non-conforming use or structure. Once the Board of Review has permitted the substitution of a more or equally restrictive non-conforming use for an existing non-conforming use pursuant to the provisions of Section ZN 7.02, the existing use shall lose its status as a legal non-conforming use and become subject to all the conditions required by the Board.

**(10) FLOODPLAIN NON-CONFORMING USES.**

**(a) Floodplain Non-Conforming Uses in the FPO Floodplain Overlay District.**

- 1 No additions of any type shall be allowed.
- 2 Floodproofing which elevates the first floor of a non-conforming structure may be allowed by permit; the entire structure shall be floodproofed by means other than the use of fill, in compliance with the standards set forth in Section ZN 3.05(4)(1) of this Ordinance, to the flood protection elevation, which is two (2) feet above one hundred (100) year recurrence interval flood.
- 3 Except as provided in subsection (d) below, if any non-conforming structure or any structure with a non-conforming use is destroyed or is substantially damaged by flood, it cannot be replaced, reconstructed or rebuilt.
- 4 Maintenance repairs include internal and external painting, decorating and the replacement of doors, windows, siding, roofing shingles and other non-structural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.
- 5 Change in roof pitch may be allowed by permit if the total cost of the work does not equal or exceed fifty (50%) percent of the structure's equalized assessed value, at the time the structure became non-conforming over the life of the structure.

**(b) If a non-conforming use is discontinued or terminated for a period of twelve (12) months, any future use of the structure, land or water shall conform to the provisions of this Ordinance.**

- (c) Non-conforming buildings that are substantially damaged or destroyed by a non-flood disaster may be restored pursuant to this section. "Non-flood disaster" means a fire or an ice storm, tornado, windstorm, mudslide or other destructive act of nature, but excludes a flood. The repair or reconstruction of any such non-conforming building shall be permitted in order to restore it to the size and use in effect prior to the damage event, provided that the minimum federal code requirements below are met and all required permits have been granted prior to the start of construction.

1 Residential Structures (Mobile Home/Manufactured Home);.

- a Shall have the lowest floor, including basement, elevated to or above the base flood elevation using fill, pilings, columns, posts or perimeter walls. Perimeter walls must meet the requirements of this Ordinance.
- b Shall be anchored to prevent flotation, collapse, or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy and shall be constructed with methods and materials resistant to flood damage.
- c Shall be constructed with electrical, heating, ventilation, plumbing and air conditioning equipment and other service facilities that are designed and/or elevated so as to prevent water from entering or accumulating within the components during conditions of flooding.
- d In A Zones, obtain, review and utilize any flood data available from a federal, state or other source.
- e In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards of this Ordinance.
- f In AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

2 Non-residential Structures.

- a Shall meet the requirements of this Ordinance.
- b Shall either have the lowest floor, including basement, elevated to or above the regional flood elevation; or together with attendant utility and sanitary facilities, shall meet the standards of this Ordinance.
- c In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards of this Ordinance.

- (d) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:

- 1 The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of flood waters without human intervention. A minimum of two (2) openings must be provided with a minimum net area of at least one (1) square inch for every one (1) square foot of the enclosed area. The lowest part of the opening can be no more than twelve (12) inches above the adjacent grade;
  - 2 The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
  - 3 Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
  - 4 The use must be limited to parking, building access or limited storage.
- (e) No new onsite sewage disposal system, or addition to an existing onsite 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 the Floodplain or Floodway Overlay Districts. Any replacement, repair or maintenance of an existing onsite sewage disposal system in a Floodplain or Floodway Overlay District shall meet the applicable requirements of Section ZN 3.05(4)(l)1 and Wis. Admin. Code §SPS 383.

All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system in the Floodplain Fringe Overlay District shall meet all the applicable provisions of Section ZN 3.05(4)(l)1 and Wis. Admin. Code §SPS 383.

- (f) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway Overlay District. Any replacement, repair or maintenance of an existing well in the Floodplain or Floodway Overlay District shall meet the applicable requirements of Section ZN 3.05(4)(l)1 and Wis. Admin. Code §NR 811 and §NR 812.

All new wells, or addition to, replacement, repair or maintenance of a well in the Floodplain Fringe Overlay District shall meet the applicable provisions of Section ZN 3.05(4)(l)1 and Wis. Admin. Code §NR 811 and §NR 812.

(11) **SHORELAND NON-CONFORMING STRUCTURES AND USES.**

- (a) An existing non-conforming structure in the shoreland that was lawfully placed when constructed but that does not comply with the required shoreland setback may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the non-conforming structure. Further, an existing structure that was lawfully placed when constructed but that does not comply with the required shoreland setback may be vertically expanded unless the vertical expansion would extend more than thirty-five (35) feet above grade level. Expansion of a structure beyond the existing footprint may be permitted if the expansion is necessary to comply with applicable state or federal requirements.

- (b) An existing non-conforming principal structure in the shoreland that was lawfully placed when constructed but that does not comply with the required building setback may be expanded laterally, provided that all of the following requirements are met:
- 1 The use of the structure has not been discontinued for a period of twelve (12) months or more if a non-conforming use.
  - 2 The existing principal structure is at least thirty-five (35) feet from the ordinary high-water mark.
  - 3 Lateral expansions are limited to a maximum of two hundred (200) square feet over the life of the structure. No portion of the expansion may be any closer to the ordinary high-water mark than the closest point of the existing principal structure.
  - 4 The Village shall issue a permit that requires a mitigation plan that shall be approved by the Village and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Section ZN 3.10(8) (Mitigation).
  - 5 All other provisions of the shoreland ordinance shall be met.
- (c) An existing non-conforming principal structure in the shoreland that was lawfully placed when constructed but that does not comply with the required building setback may be expanded horizontally, landward, or vertically provided that the expanded area meets the building setback requirements and that all other provisions of the shoreland ordinance are met. A mitigation plan is not required solely for expansion under this paragraph, but may be required per Section ZN 3.10(2).
- (d) An existing non-conforming principal structure in the shoreland that was lawfully placed when constructed but that does not comply with the required building setback may be relocated on the property provided all of the following requirements are met:
- 1 The use of the structure has not been discontinued for a period of twelve (12) months or more if a non-conforming use.
  - 2 The existing principal structure is at least thirty-five (35) feet from the ordinary high-water mark.
  - 3 No portion of the relocated structure is located any closer to the ordinary high-water mark than the closest point of the existing principal structure.
  - 4 The Village determines that no other location is available on the property to build a principal structure of a comparable size to the structure proposed for relocation that will result in compliance with the shoreland setback requirement.



5 The Village shall issue a permit that requires a mitigation plan that shall be approved by the Village and implemented by the property owner by the date specified in the permit. The mitigation plan shall meet the standards found in Section ZN 3.10(8) (Mitigation), and include enforceable obligations of the property owner to establish or maintain measures that the Village determines are adequate to offset the impacts of the permitted expansion on water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty. The mitigation measures shall be proportional to the amount and impacts of the replaced or relocated structure being permitted. The obligations of the property owner under the mitigation plan shall be evidenced by an instrument recorded in the office of the Village Register of Deeds.

6 All other provisions of the shoreland ordinance shall be met.

(e) Maintenance, Repair, Replacement or Vertical Expansion of Structures that were Authorized by a Variance. (§59.692(1k)(a)2. and (a)4, Wis. Stats.) A structure of which any part has been authorized to be located within the shoreland setback area by a variance granted before July 15, 2015 may be maintained, repaired, replaced, restored, rebuilt or remodeled if the activity does not expand the footprint of the authorized structure. Additionally, the structure may be vertically expanded unless the vertical expansion would extend more than thirty-five (35) feet above grade level. Counties may allow expansion of a structure beyond the existing footprint if the expansion is necessary to comply with applicable state or federal requirements.

**(12) NON-CONFORMING PERFORMANCE STANDARDS**

The use of any lot or parcel failing to comply with the performance standards set forth in this Ordinance at the time of the adoption of this Ordinance shall not be expanded unless such expansion conforms with the performance standards set forth in Section ZN 3.05 of this Ordinance.

## **ZN 5.03 CONDITIONAL USES.**

**(1) PURPOSE.**

A conditional use, as used in this Ordinance, is designed to be a flexibility device designed to cope with situations where a particular use, although not inherently inconsistent with the use classification of a particular district, could create special problems and hazards if allowed to develop and locate as a matter of right in a particular district and therefore is in need of special consideration. Often the effects of these uses on the surrounding environment cannot be foreseen until a specific site has been proposed. The nature, character or circumstances of these uses are so unique or so dependent upon specific contemporary conditions that predetermination of permissibility by right or the detailing in the ordinance of all of the specific standards, regulations or conditions necessary or appropriate to such permissibility is not practical, it being recognized that the Village is faced with practical difficulties in defining with precision in advance the conditions under which a conditional use permit will be granted. Those conditional uses hereinafter designated as such are deemed to have one (1) or more of the following characteristics when located within certain districts:

(a) Hazardous, dangerous or harmful to adjoining or nearby parcels, waters or the environment

- (b) Noxious, offensive, a nuisance or otherwise adverse to adjoining or nearby parcels, water or the environment
- (c) Inconsistent with or otherwise adverse to adjoining or nearby land or water uses in the absence of certain conditions

(2) **INTENT.**

It is the intent of the Village Board of Trustees to allow the hereinafter designated conditional uses within the areas designated by this Ordinance in accordance with Section ZN 5.03(5)(g) of this Ordinance and only when the conditions imposed thereon are met. Any conditions so imposed as a basis for granting the conditional use permit shall be binding on all grantees, assignees, heirs, legatees, donees, transferees and trustees of the petitioner.

(3) **PERMITS.**

The Village Board of Trustees may authorize the Village Department of Planning and Development to issue a conditional use permit for conditional uses as specified in each of the aforementioned districts set forth in Sections ZN 4.02 to Section ZN 4.08 after review and a public hearing, as provided herein, provided that such conditional uses and structures are in accord with the provisions of this Ordinance, its purpose and intent.

(4) **APPLICATION.**

- (a) Prior to application, the petitioner shall set up a pre-application conference with Village Planning and Development staff. This conference is intended to inform the petitioner of the purpose and objectives of these regulations. In so doing, the petitioner and the planning staff may reach mutual conclusions regarding the possible effect of the project on abutting properties and the petitioner will gain a better understanding of subsequent required procedures.
- (b) Applications for conditional use permits shall be made in triplicate to the Village Department of Planning and Development on forms furnished by the Village Department of Planning and Development and shall include the following:
  - 1 Name, address and phone number of the applicant, owner of the site, architect, professional engineer, contractor, and authorized agent.
  - 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; proposed operation or use of the structure or site; number of employees, and the zoning district within which the subject site is located.
  - 3 Plat of survey and/or a site plan layout consisting of a survey prepared by a land surveyor registered by the State of Wisconsin or other map drawn to scale and approved by the Department of Planning and Development showing all of the information required under Section ZN 2.02(1) for a zoning permit. In addition, the plat of survey or site plan layout or map shall show the location, elevation and use of any abutting lands

and the location and foundation elevations of structures within fifty (50) feet of the subject site; soil mapping unit lines; ordinary high water mark, historic high water marks and floodlands on or within fifty (50) feet of the subject premises, and existing and proposed landscaping. Such plans as, for example, a plan of operation, may be required as well as impact statements.

- 4 For shoreland and floodland conditional uses, such description shall also include information that is necessary for the Village Board to determine whether the proposed development will hamper flood flows, impair floodplain storage capacity, or cause danger to human, animal or aquatic life. This additional information may include plans, certified by a registered professional engineer or land surveyor, showing existing and proposed elevations or contours of the ground; fill or storage elevation; basement and first floor elevations of structures; size, location, and spatial arrangement of all existing and proposed structures on the site; location and elevation of streets water supply and sanitary facilities; aerial photographs, and photographs showing existing surrounding land uses and vegetation upstream and downstream; soil types and any other pertinent information required by the Department of Planning and Development.
- 5 Additional information relative to the elimination or alleviation or control of the danger, hazard or nuisance sought to be averted as may be required by the Department of Planning and Development, such as, without limitation due to enumeration, ground surface elevations, basement and first floor elevations, utility elevations, detailed landscape plans, plans of operation, hours, parking plans and waste disposal plans as defined in this Ordinance, historic and probable future flood water elevations, areas subject to inundation by flood waters, depths of inundation, floodproofing measures, soil type, slope, and boundaries, and plans for proposed structures giving dimensions and elevations pertinent to the determination of the hydraulic capacity of the structure or its affects on flood flows.
- 6 A list of property owners and parties of interest and their addresses certified by the Village Clerk/Treasurer as required by Section ZN 2.02(1)(e) of this Ordinance.
- 7 An agreement to abide by the terms of this Ordinance and any permit issued pursuant to it.
- 8 The fee as required by Section ZN 2.02(8) of this Ordinance.

**(5) REVIEW AND APPROVAL.**

- (a) After receipt of a petition for a conditional use permit, the Village shall place the matter on the agenda for a public hearing before the Village Plan Commission provided, however, that the requirements of Section ZN 2.01(4) of this Ordinance are complied with.
- (b) Notice of the aforementioned public hearing shall be published as a Class 1 notice in a newspaper of general circulation within Kenosha Village pursuant to Chapter 985 of the

Wisconsin Statutes and the Wisconsin Open Meeting Law, §19.81 to §19.98, Wis. Stats. In addition, notice of said public hearing shall be mailed to the last known address of all property owners certified by the Village Clerk/Treasurer as being owners of property within three hundred (300) feet of the subject property or parties of interest as defined in this Ordinance. Failure to receive notice shall not invalidate any action taken by the committee. After publication and notice, the petitioner may request the Plan Commission for a one (1) month postponement of the public hearing for good cause and no further publication or notice shall be required, provided, however, that notice of the adjourned hearing date is given in the record at the time of the published hearing. In the event the subject property lies within the shoreland jurisdiction of this Ordinance, notice of the public hearing, at least ten (10) days before the hearing, and a copy of the application shall be mailed to the Southeast District office of the Department of Natural Resources in accordance with Wis. Admin. Code §NR 115.05(6)(h). In the event the subject property lies within a floodland district, notice of the public hearing and a copy of the application shall be mailed to the Southeast District Office of the Department of Natural Resources in accordance with Wis. Admin. Code §NR 116.20(2)(c). In the event the subject property is zoned A-1, notice shall be given as required by §91.48(2), Wis. Stats., to the State Department of Agriculture, Trade and Consumer Protection.

- (c) Upon receiving a petition for a conditional use permit, the Village shall forward a copy of the petition to the Village Board and/or Village Plan Commission.
- (d) In hearing a petition requesting the issuance of a conditional use permit, the Village Plan Commission shall call the petition at the public hearing. Upon the call of the petition, the petition shall be read by the Chairman of the Commission, and at the conclusion thereof, the chairman shall hear and receive any evidence or sworn testimony presented by the petitioner or his authorized agent. At the conclusion of the petitioner's presentation, the Chairman shall first ask for any public comments from those in support of the petition and secondly from those in opposition to the petition. Any relevant and material evidence or sworn testimony presented by individuals either in favor of or in opposition to the petition shall be received by the Chairman provided however that said evidence or sworn testimony is properly identifiable for the record. Lastly, the Chairman shall ask for a recommendation from the Department of Planning and Development.
- (e) Upon receiving the recommendation of the Department of Planning and Development, the Commission may table the petition for a period of up to sixty (60) days from the date of public hearing so as to allow the petitioner an opportunity to provide any further information deemed pertinent by the Commission or so as to allow the Commission members an opportunity to view the site in accordance with the guidelines set forth in Section ZN 7.02(11) or consider the conditions for issuing a conditional use permit or to view similar uses already in existence in accordance with the guidelines set forth in Section ZN 7.02(11) if a comparison is warranted. All deliberations and decisions of the Commission relating to the issuance of a conditional use permit shall, however, be made at a meeting held in conformance with the Wisconsin Open Meeting Law.

- (f) Upon having received all evidence and hearing all sworn testimony relating to the petition, the Plan Commission shall review the site plan, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewage and water systems, the proposed operation, the effects of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat, and any other pertinent requirements deemed necessary by the Commission so as to eliminate, alleviate, or control any hazard, danger, harm, nuisance, adversity or inconsistency that exists or could develop. Upon completion of said review, the Commission chairman shall entertain a motion that the Commission either grant or deny the petition based upon specific findings and conclusions.
- (g) In making its determination, the Commission shall make the following findings:
- 1 Identification of the hazard, danger, harm, noxiousness, offensiveness, nuisance or other adversity or inconsistency sought to be averted.
  - 2 The affect of the proposed conditional use on drainage, traffic circulation, and the provision of public services.
  - 3 Existing and proposed methods of eliminating, alleviating or controlling the identified hazard, danger, harm, noxiousness, offensiveness, nuisance or other adversity or inconsistency.
  - 4 That regardless of any other provisions of this Ordinance to the contrary allowing for a conditional use permit for a particular use on a particular parcel, that the proposed and applied for use on a particular parcel is not inherently inconsistent with either the district in which it is located or adjoining districts or neighborhoods.
- (h) Unless specifically altered by Section ZN 5.03(8) of this Ordinance, compliance with all of the minimum provisions of this Ordinance, dealing with such matters as, without limitation due to enumeration, lot area and width, building height and area, yards, sanitary systems, signs, parking, loading, traffic and highway access and performance standards shall be required of all conditional uses. Variances shall only be granted as provided in Section ZN 7.02 of this Ordinance.
- (i) The decision of the Commission shall be final unless a motion to review the decision of the Commission is made and seconded at the Village Board Meeting immediately following the decision of the Commission. All evidence or sworn testimony presented at said public hearing shall be preserved by the Village Department of Planning and Development. Notice of conditional uses granted in the A-1 Agricultural Preservation District shall be given to the State Department of Agriculture within ten (10) days following the decision. Notice of conditional uses granted in a floodland district or in any other area where the shoreland jurisdiction is applicable shall be given to the Southeast District office of the State Department of Natural Resources within ten (10) days following the decision.

- (j) Any decision of the Village Plan Commission or the Village Board of Trustees related to the granting or denial of a conditional use permit may be appealed as provided for in Section ZN 7.01 of this Ordinance.
- (k) Any conditional use permit granted by the Commission shall not be valid unless recorded by the applicant in the office of the Kenosha Village Register of Deeds within five (5) days after the issuance of the permit. Any recording fees shall be paid by the applicant. In addition, the Department of Planning and Development shall keep a record and/or map of all such conditional uses and permits which shall be open to the public.

(6) **EXISTING USES.**

- (a) All uses existing at the effective date of this Ordinance which would be classified as conditional uses in the particular zoning district concerned if they were to be established after the effective date of this Ordinance, are hereby declared to be conforming conditional uses to the extent of the existing operation only. Any addition, alteration, extension, repair or other proposed change in the existing operation shall be subject to the conditional use procedures as if such use were being established anew.
- (b) Campgrounds; contractor yards; salvage, wrecking, junk, demolition, and scrap yards; towing services; mineral extraction and related uses; and sanitary landfill uses shall within one hundred eighty (180) days after the effective date of this Ordinance register with the Department of Planning and Development and submit pertinent data relative to the present operation, including the boundaries of the operation, ownership data, maps or site plan showing the existing layout, and such other data as may be necessary to enable the Department of Planning and Development to create a permanent file establishing the size, layout and operational characteristics of the existing operation. A permit shall be granted to such existing operations for the extent of the existing operation only. The Department of Planning and Development may make a finding that an adequate file already exists concerning an existing operation and may accordingly waive the registration requirement and issue a permit accordingly. Notwithstanding the fact that the aforementioned use may not be permitted within a given district, any addition, extension, or change in the operation of the aforementioned uses may be permitted, provided that such addition, extension or change shall be subject to the conditional use procedures set forth in this Ordinance.
- (c) Any other use not mentioned above which was a conforming conditional use before adoption or amendment of this Ordinance, but is not a permitted conditional use in the district in which it is now located, shall be considered a legal non-conforming use and shall be subject to the requirements of Section ZN 5.02(1) through Section ZN 5.02(11) of this Ordinance.

(7) **REVOCATION OF CONDITIONAL USE PERMIT.**

Upon a complaint filed alleging non-compliance with the terms of the conditional use permit by any interested party with the Department of Planning and Development, or upon the motion of the Department of Planning and the Plan Commission shall schedule an open hearing within forty-five (45) days of the filing of the complaint and shall conduct a hearing pursuant to the general outline set forth in Section ZN 5.03(5). Upon a finding that the standards, regulations and conditions set forth in granting

the conditional use permit have been violated, the Plan Commission may suspend the conditional use permit until such time as there is compliance with the standards, regulations and conditions imposed in the past. In the alternative, the Commission may revoke the conditional use permit. Any continued operation of the conditional use after a suspension or revocation shall be deemed a violation of this Ordinance and subject to the fines set forth in Section ZN 6.04 of this Ordinance. The action of the Commission may be appealed pursuant to Section ZN 7.01 of this Ordinance. Any failure to revoke a conditional use permit for past violations shall not operate as a waiver of the right to suppress future violations.

**(8) STANDARDS FOR CONDITIONAL USES.**

- (a) In addition to the specific conditions required herein, additional reasonable conditions or requirements which bear a direct relationship to the hazard, danger, harm, noxiousness, offensiveness, nuisance or other adversity or inconsistency sought to be eliminated, alleviated or controlled such as without limitation due to enumeration: environmental, economic or social impact statements, storm drainage plans, landscaping, architectural design, type of construction, floodproofing, ground cover, anchoring of structures, construction commencement and completion dates in accordance with Section ZN 2.02(3) of this Ordinance, sureties, letters of credit, performance bonds, waivers, lighting, fencing, location, size and number of signs, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards or parking requirements, plat of survey maps, certified survey maps, easement or street dedications, increased building areas, increased water supply, essential services and utilities, sanitary and sewage requirements, installation of pollution abatement, security, and/or safety systems, higher performance standards, stages for development of the conditional use, future review of the conditional use operation, conditions surrounding termination of the conditional use permit and the period of time for which the conditional use will be permitted may be required by the if upon its finding these are necessary to fulfill the purpose and intent of this Ordinance and so as to eliminate, alleviate or control the hazard, danger, harm, noxiousness, offensiveness, nuisance, adversity or inconsistency sought to be averted. Where studies or impact statements are required, the Commission can address problems called to its attention by the imposition of certain conditions aimed at eliminating, alleviating or controlling the problems.
- (b) The following uses are deemed by the Village Board of Trustees to be hazardous, dangerous, harmful, noxious, offensive, a nuisance or otherwise adverse to adjoining or nearby parcels, waters or the environment or inconsistent with or otherwise adverse to adjoining or nearby land or water uses and therefore should be required to meet certain additional regulations, standards, and conditions hereinafter set forth and/or standards and conditions imposed by the Plan Commission in accordance with Section ZN 5.03(5)(g) so as to eliminate, alleviate or control the hazard, danger, harm, noxiousness, offensiveness, nuisance, adversity or inconsistency prior to being permitted in the particular district wherein said use is listed as a conditional use:

1 Abrasives and asbestos in the M-2 District.

- a There shall be adequate containment and disposal of waste and by-products used in the manufacturing of abrasives and asbestos.

- b There shall be sufficient safeguards to insure against pollution and contamination of surrounding areas so as to insure against damage to the surrounding environment and to further insure against health hazards.
  - c The Department of Planning and Development shall be permitted access to the property and buildings located thereon at any time upon request to determine compliance with the specific conditions set forth by the Plan Commission.
- 2 Reserved for future use.
- 3 Airstrips, landing fields and hangars for personal or agricultural related uses in the A-1, A-2 and A-4 Districts and airports, heliport pads, aircraft hangars for storage and equipment maintenance and aircraft sales and maintenance in the I-1 District.
  - a The area shall be sufficient and the site otherwise adequate to meet the standards of the federal aviation agency and the Wisconsin Department of Transportation and any other Federal or State agency retaining jurisdiction over such airstrips and landing fields in accordance with their proposed rules and regulations. In no case shall the parcel be less than thirty-five (35) acres in size.
  - b Any building, hangar or other structure shall be at least one hundred (100) feet from any street or boundary line.
  - c Any proposed runway or landing strips shall be situated so that the approach zones are free of any flight obstructions, such as towers, chimneys, other tall structures or natural obstructions outside the airport site.
  - d There shall be sufficient distance between the end of each usable landing strip to satisfy the requirements of the aforementioned agencies, and no landing strip shall be within two hundred (200) feet of any property line. If air rights or easements have been acquired from the owners of abutting properties in which approach zones fall, satisfactory evidence thereof shall be submitted with the application.
  - e Airstrips and landing fields in the A-1, A-2, and A-4 Districts are intended only for the use of the property owner and/or emergency landings. No commercial operation shall be permitted with the exception of crop dusting.
  - f Storage of any combustible fuels shall be in accord with any state and federal regulations and due consideration shall be given so as to insure safe storage of such fuels.
  - g Special consideration shall be given to the installation of equipment normally associated with the use of airplanes such as: proper ground markings and lighting, wind direction signals, fire fighting extinguishers, radio communications equipment, and tie-down spaces.



- h No more than two (2) planes shall be housed on the premises except for the case of airports in the I-1 District.
  - I No conditional use permit shall be given unless all necessary federal and state permits have been placed on file with the Department of Planning and Development.
- 4 Airport Overlay Conditional Uses.
- a Those conditional uses permitted in the Airport Overlay District pursuant to Section ZN 4.08(3)(f) shall comply with those requirements set forth for the granting of a conditional use permit for said use in the underlying district. In the event that the conditional use listed in Section ZN 4.08(3)(f) is not permitted as a conditional use in the underlying district, such conditions may be set as will provide for the health, safety and welfare of the general public.
- 5 Amusement parks, carnivals, circuses, fairgrounds and exposition grounds in the PR-1 District.
- a The site shall contain at least twenty (20) acres and shall have direct access to federal, state or Village highways.
  - b All yards shall be at least fifty (50) feet each.
  - c Adequate vacant area must be available on the site to provide lighted parking space sufficient to handle all anticipated crowds with proper ingress and egress to public roads. A traffic-flow plan shall be required.
  - d Accessory uses consistent with the operation of the grounds shall be permitted to the extent that they do not constitute a general retail sales outlet.
  - e In the event that the circus, farm or show animals are to be brought onto the site, adequate provision shall be made for their proper confinement and for the proper disposal of animal waste.
  - f Proper sanitary facilities must be provided to handle all anticipated crowds.
  - g Time limits, performance bonds and sureties may be required as a condition for the issuance of such permit. In addition, any requirements reasonably related to the general safety and welfare of those in attendance at such activities may also be required.
  - h Increased performance standards relating to noise and hours of operation may be required.

- i A site plan shall be provided showing the location of all buildings, parking areas, housing of animals and amusement rides, etc.
- 6 Animal hospitals, shelters and kennels and veterinary services in the B-2 and B-5 Districts.
  - a All animals shall be kept within an enclosed structure and no structure or animal enclosure shall be located closer than one hundred (100) feet to a property boundary.
  - b Adequate provisions shall be made for the proper disposal of animal waste.
  - c Buildings to house animals shall be constructed with materials so as to deaden noise, such as concrete, etc.
- 7 Animal reduction in the M-2 District.
  - a The site shall contain at least five (5) acres and have an average lot width of at least three hundred (300) feet.
  - b The site shall have direct access to a Federal, State or Village Trunk Highway.
  - c Buildings, structures and storage areas shall be located in conformance with the yard requirements of the zone in which they are located, except that no buildings, structures or storage areas shall be located within one hundred (100) feet of any district boundary line. However, any setback from a railroad right-of-way need not exceed five (5) feet.
  - d A bond or other form of surety may be required so as to insure compliance with performance standards set forth in this Ordinance.
  - e An application for a conditional use permit for an animal reduction plant shall be accompanied by a report setting forth the proposed operation of the plant and also indicating the method of collection, handling, disposal and storage of all waste and by-products and in addition thereto, a report may be required from an appropriate health authority indicating the appropriateness of the site selection and the proposed plant operation as it may affect the public health.
  - f Prior to the commencement of the operation, copies of any licenses or permits from all appropriate Village, state and/or federal agencies shall be submitted to the Village Department of Planning and Development.
  - g Periodic evaluations may be required so as to determine compliance with the provisions of this Ordinance and the permit granted pursuant to it.
- 8 Archery and firearm ranges (outdoors) in the PR-1 District.

- a For single projectile (rifle and pistol) outdoor firearm ranges, all shooting shall be in the direction of targets and all targets shall be at least five hundred (500) feet from any property line. For shotgun and archery ranges, shooting positions must be at least one hundred fifty (150) feet from the property boundary.
  - b For single projectile (rifle or pistol) outdoor firearm ranges, berms shall be five (5) feet in height above the highest point of the target and shall be a minimum of ten (10) feet in depth so as to absorb stray shot. A firearm range design and operation must consistent with the most recent edition of the NRA Range Sourcebook or similar industry guidelines.
  - c In granting a conditional use permit for archery and firearm ranges, the Plan Commission shall further evaluate the potential hazards to adjacent uses, the topography and ground cover, and noise to be generated by such activity and establish reasonable and necessary standards for eliminating or minimizing the potential hazards and noise.
  - d Firing shall be directed toward the interior of the property and shall not be permitted directly over any public roads nor toward any buildings or structures or toward any population concentration within three hundred (300) feet of the range site.
  - e There shall be a defined firing line and firing direction.
  - f Ranges shall be clearly identified by signs not less than four square feet in gross area located at intervals not less than twenty-five (25) yards around the perimeter. Furthermore, ranges shall be securely fenced off from adjacent lands and waters.
  - g Provisions for first aid may be required.
- 9 Arenas and stadiums in the B-3 District.
- a At least one (1) off-street parking space shall be provided for every three (3) seats located within the arena or stadium.
  - b The site shall have direct access to federal, state or Village highways.
  - c An application for a conditional use permit shall be accompanied by a report setting forth the proposed operation of the arena or stadium.
- 10 Arenas, stadiums, coliseums, auditoriums and gymnasiums in the PR-1 District.
- a Those requirements set forth for the granting of a conditional use permit for arenas and stadiums in the B-3 District shall be met for arenas, stadiums coliseums, auditoriums and gymnasiums located in the PR-1 District.

- 11 Auto-truck body and engine repair and painting in the M-1 and M-2 Districts.
- a All outside storage of vehicles shall be properly screened, fenced and secured. Fences shall be of uniform design and height and be properly maintained for aesthetic purposes.
  - b The premises shall not be used for storage of wrecked and/or dismantled vehicles.
- 12 Automotive Body Repair in the B-3 District.
- a Those requirements set forth for the granting of a conditional use permit for auto-truck body and engine repair and painting in the M-1 and M-2 Districts shall be met.
- 13 Automotive Sales, Service and Repairs in the B-2, B-3, and B-5 Districts.
- a All servicing and repair work shall be within an enclosed structure. Repair materials, new, used or junk parts shall not be stored outside unless the storage area has a solid fence enclosure. Junk materials shall be removed at least once a month to avoid unsightliness of the site. Fences shall be of uniform design and height and be properly maintained for aesthetic purposes.
  - b No cars shall be parked within the vision triangle and all parking lots shall meet all yard requirements.
  - c Lights shall not be beamed directly onto adjoining property.
- 14 Beaches and Public Swimming Pools in the PR-1 District.
- a Standards such as those required in Section ZN 3.09 of this Ordinance may be required.
  - b Provision for lifeguards shall be required.
- 15 Bed and breakfast establishments in the A-1, A-2, A-4, R-1, R-2, R-3, R-4, and C-2 districts.
- a A site plan and plan of operation shall be submitted to the Plan Commission. The site plan shall include a parking plan.
  - b All requirements set forth in §50.51(b), Wis. Stats., and Wis. Admin. Code §HSS 197 shall be fully complied with. Necessary state permits and licenses shall have been secured.

- c All requirements of the Kenosha Village Sanitary Code shall be fully complied with. Existing onsite soil absorption sewage disposal systems shall be evaluated prior to the issuance of a conditional use permit.
  - d The owner of the bed and breakfast establishment shall reside in the establishment. No bedrooms shall be permitted to be located in an accessory structure.
  - e No more than four bedrooms shall be rented.
  - f Dwellings being considered for conversion to bed and breakfast establishments shall exhibit unique architectural or historic characteristics.
  - g Individual rentals shall not exceed five (5) consecutive days in length.
  - h No retail sales shall occur in a bed and breakfast establishment.
  - i One (1) exterior advertising sign, not exceeding four (4) square feet in area, may be erected on the premises.
- 16 Borrow pits (temporary); stockpiling or filling of clean fill materials in the A-1, A-2 and A-4 Districts
- a A detailed site plan, drawn to scale, showing the boundaries of the site, the proposed area to be filled or excavated, the location and dimensions of proposed stockpiles, circulation routes and parking, and any other specific operations areas.
  - b A detailed stormwater management and erosion control plan prepared according to best management practices by a Wisconsin registered civil engineer.
  - c A restoration plan showing topography at two (2) foot intervals, drainage patterns, and proposed end use(s).
  - d An irrevocable letter of credit, cash, bond or other security in an amount adequate to secure the obligation of the operator to restore the site to a safe, useful and aesthetically pleasing condition shall be required.
  - e Stockpiling or filling in wetlands and floodplain areas is prohibited.
  - f Fill material shall consist of clean fill only, not to include concrete, asphalt or construction debris.
- 17 Bridges and Approaches in the FPO Floodplain Overlay District.

- a Conditional use permits for bridges and approaches shall not be granted unless the applicant shall show that such use or improvement shall not impede drainage, will not cause ponding, will not obstruct the floodway, will not increase flood flow velocities, will not increase the flood stage by 0.00 foot or more unless easements or other appropriate legal measures, as may be approved by the Wisconsin Administrative Code, have been taken and approved, and will not retard the movement of flood waters. When permitted such structures shall be floodproofed and shall be constructed so as not to catch or collect debris nor be damaged by flood waters. Certification of the structure shall be made to the Department of Planning and Development and shall consist of a plan or document certified by a registered professional engineer that the structure is consistent with the flood velocities, forces, depths and other factors associated with the one hundred (100) year recurrence interval flood.
  - b The conditional use permit shall not be granted unless there is assurance of compliance with the provisions of the floodplain zoning ordinance, the purpose and objective of floodplain management, as enumerated in Wis. Admin. Code §NR 116.01 and local comprehensive plans in other land use controls.
- 18 Bus depots in the B-2 District.
  - a Sufficient space for off-street parking shall be required.
- 19 Bus terminals in the I-1 District and bus terminals and related equipment storage and maintenance buildings in the M-2 District.
  - a All maintenance and repair work shall be done within an enclosed structure.
  - b Storage of fuels and other combustible materials and products shall be adequately safeguarded and located in such a fashion as to minimize hazards inherent in the storage of such materials.
- 20 Campgrounds (Rental) in the PR-1 District.
  - a Each campsite shall be plainly marked.
  - b The maximum number of campsites shall be twelve (12) per gross acre.
  - c The minimum size of a recreational vehicle rental park or campground shall be five (5) acres.
  - d The minimum dimensions of a campsite shall be thirty (30) feet wide by fifty (50) feet long.
  - e Each campsite shall be separated from other campsites by a yard not less than fifteen (15) feet wide.

- f There shall be two (2) automobile parking spaces for a campsite.
- g No campsite shall be located closer than seventy-five (75) feet from a public highway or road right-of-way, nor closer than forty (40) feet from any other property boundary. All camping units shall be located no closer than twenty (20) feet to any internal private service road. All service roads shall be free of parked vehicles.
- h All campgrounds shall conform to the requirements of §HSS 178, Wisconsin Administrative Code, which shall apply until amended and then shall apply as amended.
- i Each campground shall be completely enclosed, except for permitted entrances and exits by either:
  - 1) A Temporary planting of fast growing material, capable of reaching a height of ten (10) feet or more, and
  - 2) A permanent evergreen planting, the individual trees to be of such number and so arranged that within ten (10) years, they will have formed a dense screen, such permanent planting shall be grown or maintained to a height of not less than ten (10) feet. Details as to plant materials, size and design of planting as well as time tables must be submitted with the application for a conditional use permit.
- j Each trailer camp, campground, or camping resort shall have a service building similar to that required by Wis. Admin. Code §HSS 177.
- k Any recreational vehicle rental park or campground may have one (1) commercial facility per development, such as a small convenience store, restaurant or snack bar, etc., located within the complex when designed for use by the occupants only. Under no circumstances may this facility be located on a public road and used for general street trade and no advertising of the facility shall cater to the general public.
- l No trailer or camping unit shall be located on one (1) site for a period of more than six (6) weeks or an extension thereof not to exceed fifteen (15) days. No trailer shall be stored in a trailer park, camping ground or camping resort and in no event shall any structures on the camp site or camping trailers be used as permanent living quarters.
- m Periodic inspections by appropriate health authorities may be required as a condition for the granting of a conditional use permit for the campground.
- n No campground shall be located in any floodplain zoning district.

- 21 Car washes in the B-2 and B-3 Districts.
- a Car washes shall be located on a public sanitary sewer and on federal, state or Village highways.
  - b A traffic flow pattern shall be submitted to the Plan Commission.
- 22 Caretaker quarters in the M-3 District.
- 23 Cemeteries in the I-1 District.
- a The site proposed for a cemetery shall not interfere with the development of a system of collector and arterial streets in the vicinity. In addition, the site shall have direct access to a public roadway.
  - b Any new cemetery shall be located on a site containing at least twenty (20) acres.
  - c All burial buildings and crematoriums shall meet the yard requirements of the District. A burial building is any building used for the interment of bodies or other remains of persons who have died, including mausoleums, vaults or columbaria.
  - d All graves or burial lots shall be set back at least thirty (30) feet from any street bounding the cemetery and there shall be two (2) side yards and a rear yard of at least twenty-five (25) feet each.
  - e Existing cemeteries may continue to operate in a manner consistent with the existing development in the area presently covered by a conditional use permit. Any expansion to land not covered by an existing conditional use permit must comply with the requirements of this section.
  - f Adequate parking shall be provided on the site, and no cemetery parking shall be permitted on any public street.
  - g Nothing in these provisions, however, shall prohibit the issuance of a conditional use permit for a pet cemetery.
- 24 Chemicals in the M-2 District.
- a A detailed site, operation, fire protection, security, waste disposal, storage, pollution control, storm drainage, and traffic flow plan shall be presented to the committee.
  - b Performance bonds shall be required to insure compliance with the terms of the conditional use permit.



- c The committee shall be advised of the potential of any health hazards that may accompany the manufacture or production of chemicals.
- 25 Coal and bone distillation in the M-2 District.
  - a Performance bonds shall be required to insure compliance with the performance standards set forth in this Ordinance.
- 26 Commercial egg production in the A-3 District. For all new and expanding commercial egg production facilities, the following requirements shall be complied with:
  - a The site shall contain a minimum of one hundred (100) acres.
  - b There shall be submitted a detailed site plan showing all building locations and distances and the capacity of each building.
  - c There shall be submitted to the Plan Commission for their approval a detailed plan as to how manure is to be handled. This shall include items as drying and storage facilities, hauling methods, location(s) where manure is to be spread and distances to the surrounding residential structures.
  - d There shall be submitted detail of all types of equipment used in handling process of manure.
  - e There shall be provided a plan for odor control, such as ozonators, etc.
  - f There shall be provided a detailed day-to-day management plan for total operation.
  - g There shall be provided a vermin, rat, and insect control plan for all facilities on the premise.
  - h All buildings housing chickens shall be located at least five hundred (500) feet from any property boundary line.
  - i There shall be provided a detailed stormwater drainage plan between all buildings and feedlots.
  - j There shall be provided a sealed vermin-proof container for all dead chickens and further, the owner and operator shall present the Plan Commission with proof that the operator has contracted with a licensed renderer to haul all dead chickens off premise on a weekly basis. Further, the owner shall be required to show that hauling is being performed at last once a week.
- 27 Commercial feedlot in the A-3 District. For all new and expanding commercial feedlot facilities, the following requirements shall be complied with:

- a The site shall contain a minimum of one hundred (100) acres.
- b The applicant shall submit a detailed site plan showing all distances between building locations and feedlot areas and the capacity of each building and feedlot.
- c The applicant shall submit to the Plan Commission for their approval a detailed plan as to how manure is to be handled. This shall include items as drying and storage facilities, hauling methods, location(s) where manure is to be spread and distances to the surrounding residential structures.
- d The applicant shall detail all types of equipment used in the handling process of manure.
- e The applicant shall provide a plan for odor control, such as ozonators, etc., if located inside a building.
- f The applicant shall provide a detailed day-to-day management plan for total operation.
- g The applicant shall provide a vermin, rat, and insect control plan for all facilities on the premise.
- h All buildings and feedlots shall be located at least five hundred (500) feet from any property boundary line.
- i The applicant shall provide a detailed stormwater drainage plan between all buildings and feedlot areas.
- j The applicant shall present the Plan Commission with proof that the operator has contracted with a licensed renderer to haul all carcasses off the premise on a weekly basis. Further, the owner shall be required to show that hauling is being performed at least once a week.
- k The applicant shall provide an adequate water supply system for all animals on the premises.

28 Commercial Recreational Facilities in the B-2 District.

- a Applicants for a conditional use permit for a commercial recreational facility (outdoor) must submit detailed development plans with time tables and necessary bonding to insure performance.

29 Community living arrangements having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements in the A-1, A-2, A-4, R-1, R-2, R-3, R-4, R-5, R-6, R-7, and R-8 Districts.

- a A report and license from the Wisconsin Department of Health and Social Services relating to the suitability of the premises for use as a community living arrangement shall accompany the application for a conditional use permit. The loss of any license shall operate as an automatic revocation of the conditional use permit. Permits shall not be transferable to another location or holder without approval of the committee.
  - b The applicant for a conditional use permit for a community living arrangement shall state on his application the purpose for the community living arrangement, the type of individuals that will reside on the premises and the plan for supervising and administering to the needs of the residents.
  - c There shall be continuous twenty-four (24) hour a day supervision for the residents in the community living arrangement facility.
  - d There shall be one (1) off-street parking facility for every four (4) residents in the facility.
  - e The owner and supervisors for the facility shall appear before the Plan Commission in person.
  - f Noises and disturbances such as loud music which may be heard on adjoining property shall be prohibited after 10:00 p.m.
  - g Unless greater restrictions are set by the State of Wisconsin, there shall be not more than three (3) residents per one hundred twenty (120) square feet of bedroom living area.
  - h The premises shall be located on a sanitary sewer.
  - i The premises shall be located on a minimum of one (1) acre of land.
  - j Where a city, town or village has passed an ordinance pursuant to §59.69(15)(a) and (b), Wis. Stats., the location and number of such community living arrangement shall be in conformance with such ordinance.
- 30 Community living arrangements for nine (9) or more persons and which are in conformance with all state statutory requirements in the R-9, R-10, and R-11 Districts.
- a Those requirements set forth for the granting of the conditional use permit for a community living arrangement having nine (9) but not more than fifteen (15) persons and in conformance with all state statutory requirements in the A-1, A-2, A-4, R-1, R-2, R-3, R-4, R-5, R-6, R-7 and R-8 Districts shall be complied with.
- 31 Concrete and Asphalt Batch Plants in the M-1, M-2 and M-3 Districts.

- a Federal and state air quality standards shall be complied with.
  - b Conditions may be set with respect to hours of operation and ingress and egress to the premises.
  - c The premises shall be properly secured.
- 32 Concrete and Asphalt Batch Plants temporarily located on a parcel in the A-1, A-2, A-3, and A-4 Districts.
  - a Federal and state air quality standards shall be complied with.
  - b Special consideration shall be given to the hours of operation and traffic patterns including ingress and egress.
- 33 Contractor storage yards in the M-2 District.
  - a The property shall be fenced with a six (6) foot high solid fence and shall also have a permanent evergreen shrub and tree plantings along said fence. In addition, a landscape plan shall be submitted to the Plan Commission for approval.
- 34 Conversion of a resort into a residential condominium in the PR-1 District, provided that:
  - a All structures shall comply with local building codes.
  - b The condominium declaration shall be submitted with the conditional use permit application and shall be made part of the permanent review file.
  - c The applicant shall submit a condominium plat showing how the property will be divided and identifying areas of common ownership. All relevant plat restrictions shall be shown on the face of the plat. Upon approval of the condominium plat, the plat shall be recorded with the Kenosha Village Register of Deeds and a copy of the plat shall be made part of the permanent review file for the conditional use.
  - d The Plan Commission shall specify the permitted dwelling sizes, dwelling height, setback, side yards, rear yard, and shore yard of the resort/condominium conversion and shall make such determinations a part of the permanent file.
  - e Additions and modifications to the converted condominium shall conform to the lot area, building bulk, and yard requirements of the R-10 District and shall be considered a new conditional use.

- 35 Construction services including building contractors; carpentering, wood flooring; concrete services; masonry, stonework, tile setting, and plastering services; roofing and sheet metal services; and septic tank and water well drilling services in the B-5 District.
- a All outside storage and work areas that are within three hundred (300) feet from residential, institutional or park districts shall be enclosed by a solid fence with a minimum height of six (6) feet; screen plantings may be required around the perimeter of the use where such perimeter abuts residential districts or where such a screen planting is deemed necessary or advisable depending on surrounding land uses.
  - b A detailed site and security plan shall be required indicating the location of storage areas, the type of material to be stored and a list of all hazardous materials stored on the property along with precautions necessitated by the storage of such hazardous material.
  - c Lighting shall be required for the storage and work areas provided, however, that the glare from said lighting does not shine on adjoining properties.
- 36 Earth movements in Shoreland areas. (See Section ZN 3.10(3) of this Ordinance.)
- 37 Electric and steam generating plants in the M-2 District.
- a The plan of operation and impact statement shall be submitted to the Plan Commission for review.
  - b All necessary state and federal permits shall be filed with the Plan Commission.
  - c The plan for the transportation, storage and disposal of fuels and waste shall be presented to the Plan Commission for review, consideration and approval.
  - d All security measures for the proposed electric and steam generating plants shall be reviewed by the Plan Commission so as to insure proper and complete security measures.
  - e All federal and state pollution guidelines and the performance standards set forth in this Ordinance shall be complied with.
  - f In the event that said generating plants make use of nuclear fuels, no conditional use permit for the construction of a nuclear generating plant shall be issued without the presentation of an evacuation plan for residents within thirty (30) miles of the site.
- 38 Event Barns in the A-1 and A-2 Districts. For the conversion of existing farm buildings on a farm for organized meetings and/or reception space as a gathering place for weddings, parties and corporate events.

- a Village Board approval shall be required prior to the issuance of a conditional use permit for an event barn. The Village Board shall have the authority to develop additional minimum standards.
- b Farm buildings shall be constructed prior to 1965 unless waived by the Village for good cause.
- c The minimum parcel size shall be ten (10) acres.
- d A two hundred (200) foot open buffer shall be provided on all sides of the property not abutting a public roadway. Outdoor special event/commercial business activities are not permitted within this buffer area. Where possible, agricultural crops shall remain or be grown in the buffer area, or suitable landscaping, to maintain the rural and agricultural character of the site.
- e Buffer plantings shall be provided along a property line where there is an abutting residence and which are intended to screen views, lights and noise from the operation. A buffer planting plan shall be submitted with the application and approved by the Village Plan Commission.
- f Parcels shall have frontage along a paved public road for direct access.
- g Access by private easement must be formalized and be recorded or available for recording. Modifications of existing easements resulting from the proposed use must be approved in writing by all easement parties.
- h All ingress/egress and parking areas shall be located in such a manner to minimize traffic hazards associated with entering and exiting the public roadway.
- i The increase in traffic generated by the proposed use shall not create a nuisance to nearby residents by way of traffic or noise.
- j Parking may be either gravel or paved. Handicapped parking spaces shall be paved and meet all state standards. Sufficient parking spaces to accommodate the proposed use shall be provided. Overflow parking on grass or hay areas is permissible. Parking on public ways is not permitted.
- k Parking areas of any type shall not be located in the required buffer area and must meet the parking requirements of Section ZN 3.06(3)(j) and (k).
- l Signage shall comply with Section ZN 3.07.
- m Any newly proposed or changed outdoor lighting shall consist of full cut-off luminaries and shall not exceed an illumination level of 0.5 foot-candles as

measured at the property line. Lighting fixtures shall be shielded or directed in such a manner so as to prevent light from shining directly onto abutting rights-of-way and adjacent properties (cut-off type luminaries only). No protruding lenses are allowed and lenses must be constructed so as to be parallel to the constructed yard grade. All security lighting shall be shielded and aimed so that illumination is directed only to the designated areas. General flood lighting fixtures shall be discouraged.

- n No on or off-premise signs, banners, or billboards shall be constructed, erected, or displayed without first obtaining proper permits from the State, Village or local unit of government in which they are being located.
  - o Structures shall be inspected by the Village Fire and Building Inspector prior to the Village meetings and shall meet all Village Fire and Building Code standards prior to occupancy.
  - p Parcels not served by public sanitary sewer shall be served by Private Onsite Wastewater Treatment Systems (POWTS) which meet all requirements of Chapter 15 of the Kenosha Village Sanitary Code and Private Sewage System Ordinance, and Wis. Admin. Code §SPS 382 - 385 and their corresponding design manuals regarding POWTS.
  - q It is the responsibility of the applicant to comply with all State and local regulations regarding public health. This includes proper and adequate toilet and hand washing facilities, showering facilities, proper food preparation and serving conditions, adequate tested potable water, proper disposal of refuse and food by-products on a timely basis. The Kenosha Village Division of Health requires permits and inspections to assure the event is conducted within laws of proper sanitation and health. The applicant shall obtain all necessary health-related permits and assure that all necessary tests and inspections are conducted.
  - r Food vendors shall be licensed by the Health Department.
  - s Amplified music and dancing are permitted only within the barn structure. Village noise ordinance shall be complied with. Outside amplified music is not permitted.
  - t The sale and consumption of alcohol beverages on the premises are subject to Village licensing requirements and Village cabaret licensing.
- 39 Flea markets, where two (2) or more wholesalers or retailers pay a consideration to the property owner for use of the site, in the B-1, B-2, B-3, B-4, M-1 and M-2 Districts.
- 40 Fertilizer production, sales, storage, mixing and blending in the A-3 and M-2 Districts.

- a The site shall contain at least ten (10) acres.
  - b A plan of operation shall be submitted along with a site plan.
  - c Storage of fertilizer shall be at least one hundred fifty (150) feet from any property boundary line.
  - d There shall be compliance with all federal and state pollution guidelines.
  - e No storage shall be closer than three hundred (300) feet to any navigable stream.
  - f All parcels shall be at least one hundred (100) feet away from any residential structure.
  - g A performance bond insuring compliance with all pollution laws shall be required.
  - h The facilities shall be properly and securely locked or fenced.
- 41 Filling as authorized by the Wisconsin Department of Natural Resources and United States Army Corp. of Engineers to permit the establishment of approved bulkhead lines in the FPO Floodplain Overlay District.
- a Those requirements set forth for the granting of a conditional use permit for bridges and approaches shall be complied with.
- 42 Forges in the M-2 District.
- a A site plan and plan of operation shall be presented to the Plan Commission.
  - b Performance bonds shall be required guaranteeing compliance with all federal and state pollution control guidelines.
  - c Open storage of materials shall be enclosed within a solid fence.
- 43 Foundries in the M-2 District.
- a Those requirements set forth for the granting of a conditional use permit for forges in the M-2 District shall be complied with.
- 44 Freight terminals, yards and freight forwarding services and related equipment storage and maintenance facilities in the M-2 District.



- a A detailed site plan shall be submitted with the application for a conditional use permit.
  - b A parking plan shall be submitted for any semi-tractor/trailer storage specifying the number and type of vehicles to be temporarily stored, and the average duration of such storage.
  - c No loading or unloading of trailers shall be permitted unless expressly permitted by the conditional use permit.
  - d No outside storage of any product; or of packing and crating materials shall be permitted except as expressly permitted by the conditional use permit, and any permitted outside storage shall be screened if located closer than five hundred (500) feet to any residential, institutional or park district.
  - e The plan for the storage of any fuels and the security to be provided on the site along with a fire protection plan shall be submitted to the Plan Commission for review, consideration, and approval. Such plans shall also designate the type of fencing that will surround the storage of such materials and the lighting of the premises.
  - f All federal and state guidelines shall be complied with.
  - g All federal, state and local permits shall be filed with the Plan Commission.
  - h Storage of petroleum and other fuels shall not be permitted closer than five hundred (500) feet to any residential, institutional or park district.
- 45 Freight terminals, yards and freight forwarding services and related equipment storage and maintenance facilities in the M-2 District.
- a The site shall contain a minimum of at least five (5) acres.
  - b All vehicle repairs shall be indoors.
  - c A site plan and plan of operation shall be presented to the Plan Commission along with a plan for the storage of fuels and combustible materials.
  - d Storage of junk parts shall not be permitted on the site.
  - e Salvaging operations shall not be permitted on the site.
  - f All transfer of products shall be done at a loading dock facility.
  - g Terminal roads, parking and loading areas shall be paved with dust-free material such as concrete or asphalt and shall be adequately lit.

- h A stormwater drainage plan prepared by certified engineers shall be submitted to the Plan Commission.
  - i The site shall be fenced and secured.
  - j Outdoor lighting shall not be permitted to shine on neighboring property.
  - k Ingress and egress to the premises and location of loading docks shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- 46 Fuel in the M-2 District.
- a Those requirements set forth for the granting of a conditional use permit for chemicals in the M-2 District shall be complied with.
- 47 Fuel oil, bottled gas, and ice dealers in the B-5 District.
- a A detailed site plan and environmental impact study shall be submitted with the application for a conditional use permit.
  - b The plan for the storage of fuels and the security to be provided on the site along with a fire protection plan shall be submitted to the Plan Commission for review, consideration, and approval. Such plans shall also designate the type of fencing that will surround the storage of such materials and the lighting of the premises.
  - c All federal and state guidelines shall be complied with.
  - d All federal, state and local permits shall be filed with the Plan Commission.
  - e Storage of fuel oil and bottled gas shall not be permitted closer than five hundred (500) feet to any residential, institutional or park district.
- 48 Garbage Incinerators in the M-4 District.
- a A site plan and plan of operation together with an environmental impact statement (EIS) assessing the effect the operation will have on the environment shall be submitted to the Plan Commission. No hazardous wastes shall be disposed of in a garbage incinerator.
    - 1) The Village may hire an independent expert to evaluate the EIS. The cost of the EIS shall be borne by the permit applicant. A surety in the form of an irrevocable letter of credit of not less than Twenty-five Thousand (\$25,000.00) Dollars shall be provided to guarantee payment for the review.

- b All federal and/or state licenses shall be presented to the Plan Commission.
  - c A performance bond guaranteeing compliance with all federal and state pollution guidelines and the performance standards set forth in this Ordinance shall be required.
  - d There shall be no outside storage of refuse unless it is contained within vermin-proof containers.
  - e Scrap yard operations shall not be permitted on the premises.
  - f A security plan shall be presented to the Plan Commission.
  - g Ingress and egress to the premises shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- 49 Gas and electric utility uses not requiring authorization under §196.491, Wis. Stats., in the A-1 and A-4 Districts.
- a All such uses shall be properly fenced and secured for protection against vandalism.
- 50 Gasohol and fuel related alcohol plants in the A-3 and M-2 Districts.
- a Those requirements set forth for the granting of a conditional use permit for the manufacture and production of chemicals in the M-2 District shall be complied with.
- 51 Gasoline service stations in the B-1, B-2, B-3, B-4 and B-5 Districts.
- a A detailed site plan shall be submitted showing all structures and their distances including canopies, pump islands, lightpoles, tower signs, storage tank locations, etc.
  - b All canopy posts shall be at least thirty (30) feet from any property line. No canopy shall exceed twenty (20) feet in height.
  - c Canopies shall not be permitted to overhang past the property line.
  - d All pumps shall be set back at least thirty (30) feet from any property line.
  - e Gasoline service stations for semi-trailers shall have their ingress and egress located in such a fashion as to give due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.

- 52      Golf courses in the PR-1 District.
- a      A detailed site plan and plan of operation shall be submitted to the Plan Commission.
  - b      Adequate sanitary facilities shall be provided.
  - c      A storm drainage plan prepared by certified engineers shall be presented to the Plan Commission.
  - d      Fairways shall be located in such a fashion as to avoid golf balls being driven outside of the property boundary lines.
  - e      Those courses to be located in primary environmental corridors shall not be granted a conditional use permit unless a conservation plan has been presented to the Plan Commission.
  - f      The following accessory uses may be permitted:
    - 1)      Country club
    - 2)      Restaurant
    - 3)      Pro shop facility
    - 4)      Tennis courts
    - 5)      Ice skating rinks
    - 6)      Swimming pools
  - g      The site shall contain a minimum of at least eighty (80) acres.
  - h      Those golf courses located in floodplain areas shall not be permitted to have structures located thereon.
- 53      Golf driving ranges in the PR-1 District
- a      The site shall contain at least ten (10) acres and shall be of such a configuration as to permit a minimum driving distance of three hundred (300) yards from each proposed tee, exclusive of the required buffered area.
  - b      A site plan shall be submitted showing the layout of the property with all fairways, roughs, greens, structures, parking, fencing and indigenous materials.

- c The golf driving range shall maintain a seventy-five (75) foot front yard and a one hundred fifty (150) foot side yard setback. The site shall be buffered by indigenous materials and fencing to minimize the impact upon adjoining properties.
  - d Toilet facilities for use by patrons shall be provided. Such facilities shall be approved by appropriate health authorities.
  - e A minimum of one (1) off-street parking space shall be provided for each driving tee proposed on the site. If other accessory uses are provided, such as a miniature golf course or batting cage, a minimum of one (1) additional parking space shall be provided for each hole of the miniature golf course or for each station in each batting cage, etc.
  - f All parking areas shall be kept in a dust-free condition, such as by oiling or by spraying with calcium chloride.
  - g Accessory use permits shall be limited to a refreshment stand, a maintenance shed, a miniature golf course, batting cage and a pro shop. In consideration of golf driving ranges, additional conditions necessary to minimize the impact upon adjacent land uses may be imposed.
  - h Night lighting shall be provided for all parking areas and no night lighting shall be permitted to shine on adjoining property.
  - i The hours of operation may be limited by the Plan Commission.
  - j The driving range shall be situated in such a fashion that the safety of adjoining residences and nearby traffic is safeguarded against stray balls.
- 54 Hazardous waste warehousing and transfer stations in the M-4 Sanitary Landfill and Hazardous Waste Disposal District.
- a A plan of operation shall be submitted to the Village Plan Commission together with an environmental impact statement (EIS) assessing the effect the operation will have on the environment. Copies of all plans shall also be reviewed by the Kenosha Village Office of Emergency Government. The method of storage and/or transfer of materials shall be identified in the plans. The operational plan shall set forth in detail the hours of operation, all mechanical and pollution control equipment and processes, plant security and pollution monitoring. The Village Plan Commission shall also be informed as to the potential hazards of the materials to be stored or transported.

- 1) The Village may hire an independent expert to evaluate the EIS. The cost of the EIS shall be borne by the permit applicant. A surety in the form of an irrevocable letter of credit of not less than Twenty-five Thousand (\$25,000.00) Dollars shall be provided to guarantee payment for the review.
- b A detailed site plan shall be presented to the Village Plan Commission which shall include, but is not limited to, a security plan showing location and type of fencing and showing how loading/unloading area will be protected; a parking plan; a site drainage plan; and a landscaping plan.
- c A fire prevention and fire protection plan shall be presented to the Village Plan Commission for review and consideration.
- d A transportation and traffic flow plan shall be prepared showing the means and the routes for transporting materials. The plan shall identify what materials will be disposed of, where and by what means they will be disposed, and the potential hazards of material disposal.
- e An emergency plan setting forth precautions and procedures (including evacuation) in the event of an accidental spill of material shall be presented to the Village Plan Commission for review and consideration.
- f The transportation and traffic flow plan and the emergency plan shall be reviewed by the Kenosha Village Office of Emergency Services.
- g All applicable state and federal permits and approvals governing the handling and disposal of medical wastes shall be secured. Copies of all permits shall be submitted with the conditional use permit application.
- h No hazardous waste storage or transfer facility shall be located closer than two thousand five hundred (2,500) feet from a residential district or use, two thousand five hundred (2,500) feet from a navigable body of water, or within a floodplain. No hazardous waste storage or transfer facility shall be located closer than five thousand (5,000) feet to a school, hospital, nursing home or other institution. Minimum separation distances shall be measured from principal building to principal building.
- i A performance bond shall be required by the Village Plan Commission so as to insure compliance with the conditions imposed by the Village Plan Commission. Such bond shall also cover Village monitoring, cleanup and restoration costs for which the applicant shall be responsible as well as for personal injury and property damage caused by the accidental or intentional discharge of an environmentally hazardous substance.

- j The Village shall be permitted access to the plant at all times for purposes of inspection of operations and records.
  - k The conditional use permit shall be in effect for a period not to exceed two years and may be renewed upon application for a period of two (2) years by the Village Plan Commission after review of the performance of the operation. Modifications or additional conditions may be imposed upon application for renewal including an increase in the amount of any bond.
  - l Violation of federal or state permits or environmental laws, rules, or regulations shall be prima facie evidence of a violation of the conditional use permit and grounds for revocation of the permit.
  - m The conditional use permit shall not be transferable or assignable without the approval of the Kenosha Village Board of Supervisors.
- 55 Housing for farm laborers or caretakers in the A-1, A-2 and A-4 Districts.
- a A site plan shall be submitted to the Plan Commission.
  - b Not more than one (1) dwelling for farm laborers or caretakers shall be permitted per farm.
  - c The conditional use shall be permitted only so long as the occupants of said dwelling are primarily engaged in farm labor on the farm or management of the farm on which the dwelling is located.
- 56 Housing for seasonal or migratory farm workers in the A-1 and A-4 Districts.
- a Those requirements set forth for the granting of the conditional use permit for housing for farm laborers in the A-1 and A-4 Districts shall be complied with.
- 57 Housing for the elderly in the R-11 District.
- a A site plan shall be submitted to the Plan Commission.
  - b Not more than twenty (20) units per acre shall be permitted.
  - c Adequate lighting on walkways, driveways, and parking areas shall be required.
- 58 Insulating materials in the M-2 District.
- a Those requirements set forth for the granting of a conditional use permit for the manufacture or production of chemicals in the M-2 District shall be complied with.

- 59 Kennels (commercial or non-commercial) in the A-1 and A-2 Districts.
- a All animals shall be kept within an enclosed structure and no structure or animal enclosure shall be located closer than one hundred (100) feet to a property boundary.
  - b Adequate provisions shall be made for the proper disposal of animal waste.
  - c Buildings to house animals shall be constructed with materials so as to deaden noise, such as concrete, etc.
  - d In no case shall the parcel be less than ten (10) acres in size.
- 60 Laboratories in the B-5 and M-2 Districts.
- a The site shall contain a minimum of two (2) acres.
  - b A plan of operation shall be submitted to the Plan Commission along with a plan for the storage and disposal of chemicals and other hazardous materials. The Plan Commission shall also be informed as to the potential hazards and general areas of experimentation. Furthermore, in the event that those general areas of experimentation are later changed, the Plan Commission shall be so informed.
  - c A fire prevention and protection plan, along with a security plan for the premises shall be presented to the Plan Commission for review and consideration.
  - d A performance bond may be required by the Plan Commission so as to insure compliance with the conditions imposed by the Plan Commission.
- 61 Lacquer, paint, stain, varnish and allied products in the M-2 District.
- a Those requirements set forth for the granting of a conditional use permit for the manufacture or production of chemicals in the M-2 District shall be complied with.
- 62 Livestock sales facilities in the A-3 and M-2 Districts.
- a The site shall contain a minimum of five (5) acres.
  - b A detailed site plan shall be submitted to the Plan Commission showing all buildings and distances between said buildings.
  - c A traffic plan showing ingress and egress for trucks using said facility shall be submitted to the Plan Commission.



- d A plan of operation including hours of operation shall be submitted to the Plan Commission.
  - e A plan shall be submitted to the Plan Commission setting forth proper removal and disposal of all animal waste.
  - f This facility shall be for the primary purpose of the sale of livestock and livestock shall not be kept in this facility for more than forty-eight (48) hours after delivery.
  - g All buildings housing livestock shall be five hundred (500) feet from any property boundary line.
  - h A detailed stormwater drainage plan between all buildings and livestock areas shall be presented to the Plan Commission.
- 63 Living quarters for watchmen and caretakers in the M-2 District.
- a A site plan shall be presented to the Plan Commission.
  - b Not more than one (1) such living quarters shall be permitted per parcel.
  - c Said living quarters shall not exceed one thousand (1,000) square feet.
  - d Said conditional use permit terminates at such time as the aforementioned quarters are no longer used as living quarters for watchmen or caretakers.
- 64 Locker plants in the B-5 District.
- a A detailed site plan and plan of operation shall be presented to the Plan Commission.
  - b No meat packing or processing shall be permitted.
- 65 Lubricating oils and greases in the M-2 District
- a The requirements set forth for the granting of a conditional use permit for the manufacture or production of chemicals in the M-2 District shall be complied with.
- 66 Malt production in the A-3, M-1 and M-2 Districts.
- a A site plan and plan of operation shall be presented to the Plan Commission.
  - b Increased performance standards relating to odors may be required by the Plan Commission.

- 67 Manufacturing of cement or concrete products in the M-3 District.
- a The site shall not be closer than three hundred (300) feet to any navigable water.
  - b The following plans shall be submitted to the Plan Commission: site plan, traffic flow plan, security plan, plan of operation, and environmental protection plan.
  - c Increased performance standards may be required by the Plan Commission along with a performance bond to insure compliance with the conditions set forth by the Plan Commission for the issuance of a conditional use permit.
- 68 Manufacturing of lime, gypsum or plaster of paris in the M-3 District.
- a Those requirements set forth for the granting of a conditional use permit for the manufacturing of cement or concrete products in the M-3 District shall be complied with.
- 69 Manufacturing, processing and storage of building materials, explosives, dry ice, fat, flammables, glue, grains, grease, lard, plastic, radioactive materials, shellac, soap, tires, turpentine, vinegar, and yeast in the M-2 District
- a Those requirements set forth for the granting of a conditional use permit for the manufacturing of cement or concrete products in the M-3 District shall be complied with.
  - b A report shall be filed with the Plan Commission indicating the type of materials to be manufactured, processed or stored on the site and the potential hazards and dangers incurred in the manufacturing, processing and storage of said materials.
- 70 Manufacture of substances where EPA certified priority pollutants such as Naphthalene, Phenols, and Polychlorinated Biphenyls (PCB's) may be a by-product of such operation in the M-4 Sanitary Landfill and Hazardous Waste Disposal District.
- a A plan of operation shall be submitted to the Plan Commission together with an environmental impact statement (EIS) assessing the effect the operation will have on the environment. Copies of all plans shall also be reviewed by the Kenosha Village Office of Emergency Government. Any storage of products manufactured shall be identified in the plans. The operational plan shall set forth in detail the hours of operation, all mechanical and pollution control equipment and processes, plant security and pollution monitoring. The Plan Commission shall also be informed as to the potential hazards of the materials to be stored or transported.

The Village may hire an independent expert to evaluate the EIS. The cost of the EIS shall be borne by the permit applicant. A surety in the form of an irrevocable letter of credit of not less than Twenty-five Thousand (\$25,000.00) dollars shall be provided to guarantee payment for the review.

- b A detailed site plan shall be presented to the Plan Commission which shall include, but is not limited to, a security plan showing location and type of fencing and showing how loading/unloading area will be protected; a parking plan; a site drainage plan; and a landscaping plan.
- c A fire prevention and fire protection plan shall be presented to the Plan Commission for review and consideration.
- d A transportation and traffic flow plan shall be prepared showing the means and the routes for transporting materials. The plan shall identify what manufacturing wastes will be disposed of, where and by what means they will be disposed, and the potential hazards of manufacturing waste disposal.
- e An emergency plan setting forth precautions and procedures (including evacuation) in the event of an accidental spill of material shall be presented to the Plan Commission for review and consideration.
- f The transportation and traffic flow plan and the emergency plan shall be reviewed by the Kenosha Village Office of Emergency Services.
- g All applicable state and federal permits and approvals governing the handling and disposal of medical wastes shall be secured. Copies of all permits shall be submitted with the conditional use permit application.
- h No carcinogen manufacturing operation shall be located closer than two thousand five hundred (2,500) feet from a residential district or use, two thousand five hundred (2,500) feet from a navigable body of water, or within a floodplain. No carcinogen manufacturing operation shall be located closer than five thousand (5,000) feet to a school, hospital, nursing home or other institution. Minimum separation distances shall be measured from principal building to principal building.
- i A performance bond shall be required by the Plan Commission so as to insure compliance with the conditions imposed by the Plan Commission. Such bond shall also cover Village monitoring, cleanup and restoration costs for which the applicant shall be responsible as well as for personal injury and property damage caused by the accidental or intentional discharge of an environmentally hazardous substance.
- j The Village shall be permitted access to the plant at all times for purposes of inspection of operations and records.

- k The conditional use permit shall be in effect for a period not to exceed two (2) years and may be renewed upon application for a period of two (2) years by the Plan Commission after review of the performance of the operation. Modifications or additional conditions may be imposed upon application for renewal including an increase in the amount of any bond.
  - l Violation of federal or state permits or environmental laws, rules, or regulations shall be prima facie evidence of a violation of the conditional use permit and grounds for revocation of the permit.
  - m The conditional use permit shall not be transferable or assignable without the approval of the Village Board of Trustees.
- 71 Marine sales and service in the B-3 District.
  - a Those requirements set forth for the granting of a conditional use permit for marinas and marine sales and service in the PR-1 District shall be complied with.
- 72 Meat packing, slaughterhouse and production of sausages and other meat products in the A-3 and M-2 Districts.
  - a Those requirements set forth for the granting of a conditional use permit for animal reduction in the M-2 District shall be complied with.
  - b No permit shall be issued unless all operations are conducted within an enclosed building.
- 73 Medical waste incinerators and medical waste processing facilities in the M-4 Sanitary Landfill and Hazardous Waste Disposal District.
  - a A plan of operation shall be submitted to the Village Plan Commission together with an environmental impact statement (EIS) assessing the effect the operation will have on the environment. Copies of all plans shall also be reviewed by the Kenosha Village Office of Emergency Government. Any storage of medical wastes or other hazardous wastes shall be identified in the plans. The operational plan shall set forth in detail the hours of operation, all mechanical and pollution control equipment and processes, plant security and pollution monitoring. The Village Plan Commission shall also be informed as to the potential hazards of the materials to be stored or transported.
    - 1) The Village may hire an independent expert to evaluate the EIS. The cost of the EIS shall be borne by the permit applicant. A surety in the form of an irrevocable letter of credit of not less than Twenty-five Thousand (\$25,000.00) Dollars shall be provided to guarantee payment for the review.

- b A detailed site plan shall be presented to the Village Plan Commission which shall include, but is not limited to, a security plan showing location and type of fencing and showing how loading/unloading area will be protected; a parking plan; a site drainage plan; and a landscaping plan.
- c A fire prevention and fire protection plan shall be presented to the Village Plan Commission for review and consideration.
- d A transportation and traffic flow plan shall be prepared showing the means and the routes for transporting materials. The plan shall identify what medical and hazardous wastes will be disposed of, where and by what means they will be disposed, and the potential hazards of said waste disposal.
- e An emergency plan setting forth precautions and procedures (including evacuation) in the event of an accidental spill of material shall be presented to the Village Plan Commission for review and consideration.
- f The transportation and traffic flow plan and the emergency plan shall be reviewed by the Kenosha Village Office of Emergency Services.
- g All applicable state and federal permits and approvals governing the handling and disposal of medical wastes shall be secured. Copies of all permits shall be submitted with the conditional use permit application.
- h No medical waste incinerator or medical waste reduction facility shall be located closer than two thousand five hundred (2,500) feet from a residential district or use, two thousand five hundred (2,500) feet from a navigable body of water, or within a floodplain. No medical waste incinerator or medical waste reduction facility shall be located closer than five thousand (5,000) feet to a school, hospital, nursing home or other institution. Minimum separation distances shall be measured from principal building to principal building.
- i A performance bond shall be required by the Village Plan Commission so as to insure compliance with the conditions imposed by the Village Plan Commission. Such bond shall also cover Village monitoring, cleanup and restoration costs for which the applicant shall be responsible as well as for personal injury and property damage caused by the accidental or intentional discharge of an environmentally hazardous substance.
- j The Village shall be permitted access to the plant at all times for purposes of inspection of operations and records.
- k The conditional use permit shall be in effect for a period not to exceed two (2) years and may be renewed upon application for a period of two (2) years by the Village Plan Commission after review of the performance of the operation.

Modifications or additional conditions may be imposed upon application for renewal including an increase in the amount of any bond.

- l Violation of federal or state permits or environmental laws, rules, or regulations shall be prima facie evidence of a violation of the conditional use permit and grounds for revocation of the permit.
- m The conditional use permit shall not be transferable or assignable without the approval of the Village Board of Trustees.

74 Millwork, lumberyards, sawmills and planing mills in the B-5, M-1, and M-2 Districts.

- a A detailed site plan, traffic plan, security plan, fire protection plan, and plan of operation shall be presented to the Plan Commission.

75 Mini-mike trails in the PR-1 District.

- a A detailed site plan and plan of operation shall be presented to the Village Plan Commission.
- b A safety plan shall be presented to the Village Plan Commission indicating speed limits and the posting thereof along with other warning and cautionary signs.

76 Mini-warehouses in the B-3 and B-5 Districts.

- a A detailed site plan, traffic plan, security plan, fire protection plan, landscape plan, and plan of operation shall be presented to the Plan Commission.
- b All lighting shall be shielded and directed as to not shine on to abutting properties or the highway right-of-way.
- c All buildings shall be completely constructed of decorative brick, block, and/or masonry.
- d The property shall be fenced with a six (6) foot high security fence.
- e All parking areas, service drives, and access drives shall be paved.

77 Mobile Home/Manufactured Home Parks in the R-12 District

- a The requirements set forth in all applicable provisions of the Wisconsin Administrative Code and amendments thereto shall be complied with.
- b The minimum park size shall be ten (10) acres.
- c Minimum park width shall be four hundred fifty (450) feet

- d The maximum number of mobile home/manufactured home sites shall be eight (8) per gross acre and shall be supplied by community water facilities or municipal water if available.
- e The minimum open space provided shall be twenty (20%) percent of the development area, exclusive of streets.
- f The minimum lot area for a single module mobile home/manufactured home shall be five thousand (5,000) square feet. The mobile home/manufactured home lot shall be a minimum of fifty (50) feet in width.
- g The minimum lot area for a double module mobile home/manufactured home shall be six thousand (6,000) square feet. The mobile home/manufactured home lot shall be a minimum of sixty (60) feet in width.
- h The minimum setback for a mobile home/manufactured home park shall be sixty-five (65) feet from the right-of-way line of a state trunk or Village trunk highway and forty-five (45) feet from all other roads.
- i The minimum distance between mobile home/manufactured home units and all other exterior park lot lines shall be forty-five (45) feet.
- j The minimum distance between mobile home/manufactured home and internal service roads shall be twenty (20) feet.
- k The minimum distance between mobile home/manufactured home trailers shall be twenty (20) feet.
- l All drives, parking areas, and walkways shall be surfaced with dust-free material. There shall be two (2) parking spaces for each mobile home/manufactured home. All public or private roadways shall have a minimum road right-of-way of sixty-six (66) feet and shall meet all Village standards for road construction.
- m All mobile homes/manufactured homes shall be securely anchored to the ground so as to minimize storm damage.
- n No mobile home/manufactured home sales office or other business or commercial use shall be located on the mobile home/manufactured home park site. However, laundries, washrooms, recreation rooms, maintenance equipment storage, and one (1) office are permitted as long as it is related to the general operations of the park.
- o Each mobile home/manufactured home park shall be completely enclosed, except for permitted entrances and exits by:

- 1) A temporary planting of fast growing material, capable of reaching a height of ten (10) feet or more and
  - 2) A permanent evergreen planting, the individual trees to be of such number and so arranged that within ten (10) years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than ten (10) feet.
- p All mobile homes shall meet the construction standards of the Mobile Home Manufacturing Association and any other requirements set forth by the Wisconsin Statutes or Wisconsin Administrative Code. All manufactured homes shall have a HUD (U.S. Department of Housing and Urban Development) label or insignia certifying that it is built in compliance with the Federal Manufactured Housing Construction Standards as set forth in the United States Code of Federal Regulations.
- q No mobile home/manufactured home site shall be rented for a period of less than thirty (30) days.
- r The mobile home/manufactured home park shall meet the requirements of all local ordinances and State administrative rules regarding mobile homes/manufactured homes and mobile home/manufactured home parks and in the event of a conflict between said ordinances, statutes or rules, the more restrictive requirement shall be complied with.
- s Copies of all licenses required by §66.0435(1) to (8), Wis. Stats., shall be obtained and presented to the committee for review.
- 78 Model apartments and model condominiums and related temporary real estate sales office located within the model unit in the R-9, R-10 and R-11 Districts.
- a Models may be located in all new subdivisions for a period not to exceed three (3) years from the date of issuance of a zoning permit.
  - b Models shall not be used as a real estate office other than incidental to showing the model dwelling.
  - c Models shall be designed in such manner as they will blend with existing neighborhood environments.
  - d Models shall not be opened beyond 9:00 p.m.
  - e One (1) sign shall be permitted provided, however, that it is no larger than four feet by six (6) feet and provided further that in the event that said sign is lighted, there is no flashing or traveling lights associated with said sign.



- f Proper exterior maintenance of the property shall be provided such as maintaining the lawn and yard, removal of snow, etc.
  - g Models shall be completely landscaped and have a paved driveway within one (1) year from the date of issuance of the zoning permit.
  - h No parking lots shall be created that would not normally be found in a single-family development.
  - i Sufficient parking shall be provided on subdivision roads and in model home driveways, but in no case shall the parking be allowed on any federal, state, Village or Village highway. Any parking on subdivision roads shall be done in such a manner as to minimize congestion to the surrounding neighborhood.
  - j In those cases where five (5) or more homes are developed into a "parade of homes", the developer shall provided sufficient temporary off-street parking for the duration of the exhibit. This parking need not, however, be paved or graveled.
- 79 Model mobile home and related temporary real estate sales office located within the model unit in the R-12 District.
- a Those requirements set forth for granting a conditional use permit for model apartments and model condominiums and related temporary real estate sales office located within the model unit in the R-9, R-10 and R-11 Districts shall be complied with.
- 80 Model single-family home and related temporary real estate sales office located within the model unit in the R-1 and R-2 Districts.
- a Those requirements set forth for granting a conditional use permit for model apartments and model condominiums and related temporary real estate sales office located within the model unit in the R-9, R-10 and R-11 Districts shall be complied with.
- 81 Model single-family homes and model single-family condominiums and related temporary real estate sales office located within the model unit in the R-3, R-4 and R-5 Districts.
- a Those requirements set forth for granting a conditional use permit for model apartments and model condominiums and related temporary real estate sales office located within the model unit in the R-9, R-10 and R-11 Districts shall be complied with.
- 82 Model two-family homes and model two-family condominiums and related temporary real estate sales office located within the model unit in the R-7 and R-8 Districts.

- a Those requirements set forth for granting a conditional use permit for model apartments and model condominiums and related temporary real estate sales office located within the model unit in the R-9, R-10 and R-11 Districts shall be complied with.
- 83 Motor freight in the M-2 District
- a Those requirements set forth for the issuance of a conditional use permit for freight terminals in the M-1 and M-2 Districts shall be complied with.
- 84 Multiple family dwellings in the R-9, R-10, and R-11 Districts.
- a In the R-9 District, dwellings containing between four and eight (8) units per structure shall not be located closer than three hundred (300) feet to any parcel of land zoned for a single-family residence.
  - b Additionally, all applicants for developments of multiple-family dwellings in the R-9, R-10, or R-11 Districts shall submit an application substantially complying with Section ZN 4.08(2)(h) of this Ordinance, which shall be reviewed pursuant to conditional use procedures and according to the additional standards contained in Section ZN 4.08(4)(k)1a to d.
- 85 Municipal Water Supply and Sanitary Sewerage Systems in the FPO District.
- a Those requirements set forth for granting a conditional use permit for bridges and approaches in the FPO District shall be complied with.
  - b The system must be floodproofed to an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood, and be designed to eliminate or minimize infiltration of floodwaters into the system. Certification of floodproofing shall be made to the Office of Planning and Zoning and shall consist of a plan or document certified by a registered professional engineer that the floodproofing measures are consistent with the flood velocities, forces, depths, and other factors associated with the one hundred (100) year recurrence interval flood level for the particular stream reach.
- 86 Navigational structures in the FPO Floodplain Overlay District.
- a Those requirements set forth for granting a conditional use permit for bridges and approaches in the FPO District shall be complied with.
- 87 Non-residential Buildings may be constructed and maintained in the C-1 and C-3 District, provided that:

- a The building is essential for and used solely in conjunction with the raising of waterfowl, minnows or other wetland or aquatic animals; or some other use permitted in the shoreland-wetland district;
  - b The building cannot, as a practical matter, be located outside the wetland;
  - c Such building is not designed for human habitation and does not exceed five hundred (500) square feet in floor area; and
  - d Only limited filling or excavating necessary to provide structural support for the building is authorized.
- 88 Offal in the M-2 District.
- a Those requirements set forth for the granting of a conditional use permit for animal reduction in the M-2 District shall be complied with.
- 89 Outside storage and manufacturing in the M-2 District.
- a All outside storage and manufacturing areas a minimum of three hundred (300) feet from residential, institutional or park districts shall be enclosed by a solid fence with a minimum height of six (6) feet; screen plantings may be required around the perimeter of the district where such perimeter abuts residential districts or where such a screen planting is deemed necessary or advisable depending on surrounding land uses.
  - b A detailed site and security plan shall be required indicating the location of storage areas, the type of material to be stored and a list of all hazardous materials stored on the property along with precautions necessitated by the storage of such hazardous material.
  - c Lighting shall be required for the storage and manufacturing areas provided, however, that the glare from said lighting does not shine on adjoining properties.
- 90 Packing and crating services in the M-1 and M-2 Districts.
- a All transfer of products shall be done at a loading dock facility.
  - b Terminal roads, parking and loading areas shall be paved with dust-free material such as concrete and asphalt and shall be adequately lit.
  - c A stormwater drainage plan prepared by certified engineers shall be submitted to the Plan Commission.
  - d The site shall be fenced and secured.

- e Outdoor lighting shall not be permitted to shine on neighboring property.
  - f Ingress and egress to the premises and the location of loading docks and storage of pallets shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- 91 Park and recreational areas not including structures in the FPO District.
- a Those requirements set forth for granting a conditional use permit for bridges and approaches in the FPO District shall be complied with.
- 92 Park and Recreation Areas (public or private), natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, fish hatcheries, and public boat launching ramps and attendant access roads in C-1 and C-3 Districts, provided that:
- a Any private development is used exclusively for the permitted use and the applicant has received a permit or license under Chapter 29, Wisconsin Statutes, where applicable;
  - b Filling or excavating necessary for the construction or maintenance of public boat launching ramps or attendant access roads is allowed only where such construction or maintenance meets the criteria in Section ZN 5.03(8) of this Ordinance, and;
  - c Ditching, excavating, dredging, or dike and dam construction in public and private parks and recreation areas, natural and outdoor education areas, historic and scientific areas, wildlife refuges, game bird and animal farms, fur animal farms, and fish hatcheries is allowed only for the purpose of improving wildlife habitat and to otherwise enhance wetland values.
- 93 Penal, reform, disciplinary and mental institutions in the I-1 District.
- a A statement of intent shall be filed with the Plan Commission indicating the type of facility that is being proposed, the type of individuals to be housed in the facility along with a listing of their needs and the problems they have encountered, whether the facility is to be a maximum security facility or a minimum security facility or other such designation, the maximum number of inmates or patient that will be residing at the facility, and the number of personnel to be employed by the facility and the type of employment that each will be engaged in.
  - b A site plan shall be presented in detail and include therein all internal road systems and the location of all buildings and security devices.

- c A plan of operation shall be submitted setting forth the security system to be employed on the site, the number of personnel employed on each shift, fire and police protection that will be relied upon in the event of an emergency, alternate security systems and back-up systems, especially where electronic security devices are used, the type of supervision to be employed in the facility including the job descriptions and requirements for all employees, and what medical facilities will be relied upon in the event of an emergency.
- d All appropriate licenses to be issued by federal, state and/or local governing bodies or agencies shall be submitted to the Plan Commission.
- e An impact statement shall be required so as to better enable the Plan Commission to determine the effect of such a facility on the community with such statement addressing itself to the social, economic and environmental impact on the Village and addressing itself to, without limitation due to enumeration, the effect of such a facility on local and Village law enforcement agencies, local and Village fire protection requirements, the Village court system, property values in surrounding areas, sanitation requirements, increased highway and transportation needs, employment, housing, schools, the surrounding environment, and the cost of the increase in services to Village taxpayers.
  - 1) The aforementioned impact statement is to be prepared by a consultant chosen by the Village Board of Trustees and paid for by the applicant. Such impact statement shall list problems incurred by other facilities of a similar nature, be they in or outside of the state of Wisconsin.
  - 2) Any problems, hazards, nuisances, danger, harm, noxiousness or offensiveness brought out by such impact statement may be addressed by the Plan Commission and may form the basis for additional conditions being imposed upon the applicant.
- f Mindful of the dangers and hazards imposed by both fire and nuclear radiation and the proximity of Kenosha Village to the Zion nuclear plant, an evacuation plan setting forth in detail the method and manner for mass evacuation in the event of an emergency shall be required. In lieu thereof, a shelter facility shall be provided on the facility to adequately service the needs of employees and residents in the event of emergency.
- g The site shall contain a minimum of three hundred (300) acres.
- h Structures shall be at least one thousand five hundred (1,500) feet from any boundary line and all structures shall be at least two thousand five hundred (2,500) feet from any residential, commercial, manufacturing or other institutional district.

- i Structures shall contain living areas of not less than ninety (90) square feet per occupant.
  - j A solid reinforced concrete wall, at least twenty-four (24) inches wide and twenty-five (25) feet in height shall completely encircle all prison and penal institutions and no building may be located closer than seventy-five (75) feet to said wall.
  - k Three (3) chain link fences at least thirty (30) feet apart shall be located outside the prison wall. Within the inner fence there shall be an electronic surveillance system between the fence and the prison wall and between all chain link fences there shall be spread out on the ground three (3) foot diameter coils of barbed steel tape for maximum security institutions.
  - l The grounds and all areas within the aforementioned chain link fences shall be adequately lit at night and an emergency electrical generation station shall be provided for in the event of an emergency.
  - m The facility shall be on public sewer and water.
  - n The street frontage shall be landscaped in such a manner as to achieve a height of ten (10) feet or more by way of a temporary planting of fast growing material and shall also provide for a permanent evergreen planting, the individual trees to be of such number and so arranged that within ten (10) years, they will have formed a dense screen, with such permanent planting growing or being maintained to a height of not less than ten (10) feet. Details as to plant materials, size and design of planting as well as time tables must be submitted with the application for a conditional use permit.
  - o In the case of mental institutions, or in the case of juvenile detention facilities, minimum security, penal institutions, and reformatories, the aforementioned conditions may be modified as deemed appropriate by the Plan Commission.
- 94 Pet Kennels (see Kennels).
- 95 Petroleum bulk stations and terminals in the M-1 and M-2 Districts.
- a A detailed site plan and environmental impact study shall be submitted with the application for a conditional use permit.
  - b The plan for the storage of fuels and the security to be provided on the site along with a fire protection plan shall be submitted to the Plan Commission for review, consideration and approval. Such plans shall also designate the type of fencing that will surround the storage of such materials and the lighting of the premises.

- c No storage shall be permitted within three hundred (300) feet of any shoreland or floodplain.
  - d A statement of intent shall be filed with the Plan Commission indicating the type of fuels to be stored and the manner of storage. In the event of subsequent modification of the type of materials or manner for storing materials, the aforementioned plan shall be updated.
  - e All federal and state pollution guidelines shall be complied with.
  - f All federal, state and local permits shall be filed with the Plan Commission.
  - g A detailed drainage plan, traffic plan and loading plan shall be presented to the Plan Commission along with the location of any pipelines.
  - h Storage shall not be permitted closer than one thousand five hundred (1,500) feet to any residential, commercial, industrial or institutional district.
- 96 Plastic materials and synthetic resins, synthetic rubber, and synthetic and other man-made fibers and products in the M-2 District.
- a Those requirements set forth for the granting of a conditional use permit for the manufacture or production of chemicals in the M-2 District shall be complied with.
- 97 Poison in the M-4 District.
- a Those requirements set forth for the manufacture or production of chemicals in the M-2 District shall be complied with.
- 98 Power and heat generating plants in the M-2 and I-1 Districts.
- a The issuance of a conditional use permit for electrical and steam generating plants in the M-2 District shall be complied with.
  - b An impact statement may be required by the Plan Commission setting forth the economic, social and environmental impact of such a project on the community.
- 99 Processing and packaging of animal bedding in the A-3 District.
- a A detailed site plan, traffic plan, security plan, fire protection plan, and plan of operation shall be presented to the Plan Commission.
  - b Bedding materials may be processed from straw, hay, or other natural bedding materials; or may be processed from recycled paper or cardboard, or wood shavings.

- c Recycling of other materials; or recycling to create a product other than animal bedding shall be prohibited.
  - d No outside storage of bedding materials or processing waste shall be permitted on the site.
- 100 Processing of hardwood dimension, flooring, veneer and plywood in the M-1 and M-2 Districts.
  - a A detailed site plan and plan of operation shall be submitted to the Plan Commission with said plans indicating the type of material to be stored on the premises, its location, the security to be provided on the premises including fencing and lighting.
  - b Roads shall be paved or maintained in a dust-free condition.
  - c A drainage plan shall be submitted to the Plan Commission.
  - d Ingress and egress to the premises and the location of loading docks shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- 101 Production of animal and marine fats and oils in the A-3 and M-2 Districts.
  - a Those requirements set forth for the granting of a conditional use permit for animal reduction in the M-2 District shall be complied with.
- 102 Production of shortening, table oils, margarine and other edible fats and oils in the A-3 and M-2 District.
  - a Those requirements set forth for the granting of a conditional use permit for animal reduction in the M-2 District shall be complied with.
- 103 Public water measuring and control facilities done in accordance with the provisions of Wis. Admin. Code §NR 116.17 in the FPO Floodplain Overlay District.
  - a Those requirements set forth for the granting of a conditional use permit for bridges and approaches in the FPO District shall be complied with.
- 104 Quarrying and other non-metallic mining in the M-3 District.
  - a An application for quarrying and other non-metallic mining shall include:
    - 1) The name, address, telephone number. The name, address and telephone number of the operator, and the name, address, and



telephone number of the owner of the site, if the operator is not the owner.

- 2) A copy of the operator's deed to the site, contract to purchase the site, or lease authorizing the operator to conduct quarry or other non-metallic mining operations on the site. The expiration date of any lease shall be clearly indicated thereon.
  - 3) A legal description of the proposed quarry or other non-metallic mining site and the total number of acres involved.
  - 4) A list of all other quarry or non-metallic mining permits or licenses held by the operator, including the name, address, and telephone number of each permitting or licensing entity.
  - 5) A general location map of the site.
- b Survey Required. Five (5) copies of a survey, drawn to a scale of no less than one (1) inch equals two hundred (200) feet, which shall include the following:
- 1) The boundaries of the quarry or other non-metallic mining site.
  - 2) Topography of the site and all lands within two hundred (200) feet thereof, at intervals no larger than two (2) feet.
  - 3) Location and names of all streams, lakes, ponds, roads, railroads, utility lines, and pipelines on or immediately adjacent to the site.
  - 4) Location of all structures.
  - 5) Boundaries and elevations of previous excavations on the site.
  - 6) Location and description of mining site boundary stakes and permanent reference point.
- c Zoning of the site and of all properties within five hundred (500) feet of the boundaries of the site.
- d Photographs (8" x 10") of the site and its surroundings, including photographs of all potentially sensitive or important aspects of the site or neighboring properties, and, if available, an aerial photograph of the site and its surroundings (usually available from the Southeastern Wisconsin Regional Planning Commission).

- e An operations plan, in which all horizontal and vertical measurements are referenced to a permanent reference point, consisting of maps, diagrams, narrative documents and other materials describing and explaining in detail the nature of the operations, the methods and procedures to be used in mining the site and in processing and otherwise dealing with the mined materials, the methods and procedures to be used in eliminating or minimizing adverse impacts or effects of the proposed operations, and a proposed timetable for completion of the operations and of the various stages of the operations, and which shall contain, without limitation, the following:
- 1) Type and total volume of desirable material to be extracted, and the estimated annual volume to be extracted, identifying the assumptions on which such estimate is based; and the type and volume of waste material to be stripped or extracted.
  - 2) Type of mining, processing, and transportation equipment to be used.
  - 3) Timetable for the commencement, and to the extent practical, duration, and cessation of the mining operations and, if seasonal operations are intended, the months during which operations will be conducted.
  - 4) Anticipated hours and days of operation, specifying differences between various aspects of the operations, if applicable.
  - 5) Market area to be served by the operation.
  - 6) Means of transporting mined materials from the site and the primary travel routes to be used.
  - 7) Whether haul trucks will be owned by the operator or others.
  - 8) Boring descriptions to the total depth of the proposed operation, describing each formation in terms of thickness and other relevant characteristics, sufficient borings shall be conducted to describe the type and quality of material to be extracted, to calculate the amount of desirable material to be mined and the amount of waste material to be disposed of, and to demonstrate that an adequate supply of desirable material is located at the site to justify the adverse impacts of the operation. Borings shall be referenced to a permanent reference point.
  - 9) A detailed description and explanation of all methods used to control and monitor noise.
  - 10) A detailed description and explanation of all methods used to control and monitor dust and mud tracking.

- 11) A detailed description and explanation of all methods used to control and monitor ground vibrations.
- 12) A detailed description and explanation of all methods used to control and monitor airblast.
- 13) A detailed description and explanation of how the operator proposes to screen the operations from surrounding properties, streets and highways, including, without limitation, detailed plans for any proposed berming or landscaping.
- 14) A detailed description and explanation of how water will be collected, treated, and disposed of on the site, and of all methods used to avoid or control water pollution or sedimentation and to monitor the results of such controls.
- 15) A detailed description and explanation of how overburden and other waste materials will be stored, disposed of, or used.
- 16) Observed or estimated depth of groundwater, together with a description of the location(s) and date(s) of any observations and the basis for any estimates.
- 17) A detailed description and explanation of how the operator will avoid a drawdown of groundwater that will affect nearby wells and of all methods used to monitor the effects of the operation on the groundwater table.
- 18) A detailed statement of the following:
  - a) The beneficial aspects of the proposed operation.
  - b) The potential adverse impacts of the operation on humans residing or working in the vicinity of the operation which cannot be totally eliminated by proposed control measures.
  - c) The potential adverse environmental impacts of the operation which cannot be totally avoided by proposed control measures.
  - d) The potential adverse economic impacts of the operation on neighboring property owners and the Village which cannot be totally avoided by the proposed control measures.
- 19) A detailed, step-by-step description and explanation of all aspects of the operations.

- 20) A detailed site plan, drawn to scale, showing the boundaries of the site, the proposed boundary of the area to be mined, the proposed location of permanent mining area markers, the final elevation of the area to be mined, and the locations and dimensions of proposed berms, haul roads, crushing, washing or other processing facilities, conveyors, stockpiles, loading areas, scales or other sales facilities, circulation routes and parking, offices, explosives storage facilities, and all other structures or specific operations areas.
- 21) With respect to any proposed blasting operations, a detailed description and explanation of the proposed blasting methodology, including, without limitation, drilling procedure (and how burden and depth of holes is measured), benching, the initiation system, type and sequencing of delays, the explosives used and a full description of a typical proposed production shot, including the height of the face, number of holes, size of holes, burden, spacing, and maximum pounds of explosives per delay.
- 22) If explosives are to be used in the operation, a detailed plan for the storage, handling and use of such explosives. Any such proposed procedures shall comply with all Federal, State and local regulations.
- 23) Map or diagram and narrative describing in detail the sequential stages of mining (including any shifts in the location of activities or facilities) or, if no stages are planned, a detailed description of how the operator plans to proceed with the mining operation. The map or diagram shall show the location of all phase boundary stakes.
- 24) A detailed plan showing and describing in detail erosion control measures to be used during and in connection with each aspect of the operation. Such plan shall describe, without limitation, how disturbed surfaces such as stripped areas, haul roads, berms, waste piles, stored topsoil and stockpiles will be dealt with to prevent erosion, sedimentation, fugitive dust and pollution of surface and groundwater, and how the operator proposes to minimize the area of erodible surfaces exposed at any one (1) time. (In addition to any permit requirements, temporary stabilization measures may be ordered by the Plan Commission or its designee to correct situations which are resulting in or are likely to result in erosion, sedimentation, fugitive dust or water pollution that is detrimental to adjoining properties or to the public health, safety, and welfare. Such temporary stabilization measures may include, without limitation, silt fencing, bale check dams, sod strips, riprap, hard surfacing with concrete or blacktop, slope reduction, seeding or sodding, erosion mat placement, mulching, and settling basin construction).

- 25) A plan describing and explaining in detail the handling of all water on the site, including, without limitation, the following:
- a) Existing and proposed drainage on the site, showing contours at two (2) foot intervals.
  - b) The location and dimensions of all settling, retention or detention ponds, together with calculations demonstrating that such ponds are of adequate design to eliminate downstream sedimentation, erosion, or water pollution.
  - c) The estimated volume of water to be pumped out of the operations area, together with the assumptions, observations, and calculations on which such estimate is based.
- 26) A scale map of survey delineating all bodies of navigable water, all floodplains, all shorelands or shorelands wetlands zoning areas, all wetlands, and all primary environmental corridor areas on the site.
- 27) A detailed map or diagram and description of the location, type, height, and installation of proposed fencing.
- 28) If customers of the operator will pick up product at the site, a detailed description of how the operator will deal with haul trucks that arrive at the site before the site is open in the morning.
- 29) A detailed description of any highway modifications or improvements that are required or desirable to accommodate the anticipated truck traffic, including, for example, acceleration or turning lanes, traffic signals or reinforced pavement, the estimated cost of such improvements, and of any other required modifications of public infrastructure, and whether the operator proposes to pay for such modifications.
- 30) A detailed traffic study demonstrating that the anticipated truck traffic can be safely accommodated on the proposed routes of travel.
- 31) A detailed description and explanation of the methods by which the operator proposes to determine whether the operation has damaged or diminished the value of nearby properties, including, for example, periodic evaluation of structures, wells and market value, and whether the operator is willing to reimburse persons for such losses.

- 32) If there are active wells within one thousand (1,000) feet of the quarry site, a hydrogeological study to determine whether and to what extent the operation is likely to draw down the groundwater table to an extent that wells will or may be impaired.
- 33) A listing of all Federal, State, or local permits or approvals, which are required in connection with any aspect of the proposed operation.
- 34) A detailed description of all structures or areas of archeological or historic interest on the site, and a detailed explanation of how the operation will affect such structures or areas.
- 35) A detailed description of, explanation of the function of, and architectural renderings of all proposed structures.
- 36) Any other information or materials required to demonstrate that the proposed operation will result in no significant loss, harm or damage to neighboring property owners, to the Village or to the public health, safety, and welfare, nor any serious risk of any such loss, harm or damage.

f A reclamation plan, in which all horizontal and vertical measurements shall be referenced to a permanent reference point, consisting of maps, diagrams, narrative documents and other materials describing and explaining in detail the proposed reclamation of the site, the methods and procedures to be used for reclamation and a timetable for completion of various stages of the reclamation, and which shall contain, without limitation, the following:

- 1) A detailed description of the topsoil stripping and separation process, the location of topsoil storage, and the methods of stabilization and conservation that will be used during storage.
- 2) A detailed reclamation site plan and description of the site when fully reclaimed, showing topography at two (2) foot intervals, drainage patterns, landscaping, structures, any water impoundments or lakes, and the proposed end use(s). To the extent that restoration will take place in stages, or incrementally, provide such site plan and description for each appropriate stage.
- 3) The estimated elevation of the water's surface in any lake or impoundment, referenced to a permanent reference point, and a detailed explanation for the basis of such estimate.
- 4) Detailed landscaping plans, showing the location, species, species and size of the trees, shrubs and other vegetation to be planted or seeded, and the approximate time frame or such planting or seeding.

- 5) Detailed cross-section diagrams, drawn to scale, showing at appropriate illustrative locations (which should be indicated on the reclamation site plan(s)) the reclaimed topographic features, including, without limitation, elevations slopes, high wall reductions, benching, terracing, and other stabilization and utilitarian features.
  - 6) Detailed topsoil application, seeding and/or sodding plan, describing the location, methods and thickness of topsoil application, seed types, seeding rates, and mulching netting and/or other techniques used to accomplish soil and slope stabilization.
  - 7) Detailed plan for the disposal of all structures, roads, and other facilities not incorporated into the final reclamation plan.
  - 8) Estimated cost of reclamation, by phase, with accompanying supportive estimates and calculations, and the proposed form of any security documents.
  - 9) A detailed description of how potentially dangerous conditions will be rendered safe and useful, e.g., by reducing sheer high walls to provide for access to the water, shallow areas suitable for swimming and fish propagation, climb-out areas, etc. To the extent practicable, a timetable for the commencement, duration, and cessation of reclamation activities, by stage.
  - 10) Any other information or materials required to demonstrate that the proposed reclamation will result in a safe, useful, and aesthetically pleasing site.
- g Additional Information. The Plan Commission and its designees may require the submittal of such additional information or materials as may be necessary or desirable to determine the nature and extent of the operations, the potential adverse impacts of such operations on neighboring property owners and the Village in general, the appropriate methods to eliminate or mitigate potential adverse impacts and the appropriateness and effectiveness of the proposed reclamation.
- h Waiver of Application Requirements. The Plan Commission may waive any specified information required to be submitted with the application for a permit if it is satisfied that such information is not relevant or is unnecessary to a full and effective evaluation of the proposed operation and reclamation, or if the cost of producing certain information is unreasonable in comparison to the usefulness of the information in the evaluation process. The Office of Planning and Development staff may preliminarily waive any application requirements on the same grounds, but such a preliminary waiver may be reversed by the Plan

Commission. In determining whether to waive application requirements, the Plan Commission and the Office of Planning and Development staff shall take into account, without limitation, the nature and extent of the proposed operations, the surrounding existing and anticipated land uses, and whether and to what extent the operation pre-existed the effective date of this Section. It shall be the obligation of the applicant to request in writing any such waiver. Such request shall set forth the justification for such waiver.

- i Public Hearing for Non-metallic Mining. Notwithstanding the public hearing requirements of Section ZN 5.03(5) of this Ordinance, the Office of Planning and Development staff shall, upon receipt of a complete permit application, refer the application to the Plan Commission for its consideration and the Committee shall schedule a public hearing on the application. The hearing shall be scheduled not earlier than sixty (60) days nor more than ninety (90) days after receipt of the application to provide time for the staff to review the application, but the Plan Commission, for good cause shown, may order a modification of this requirement. Notice of the public hearing shall be published as Class 1 notice in a newspaper of general circulation within the Village. In addition, notice of the public hearing shall be mailed to the operator, the owner of the site, and to the last known address of all owners of real property located within three hundred (300) feet of the boundaries of the site. This requirement of actual notice to persons other than the operator is precatory, and the failure to mail or receive such notice shall not invalidate any action taken by the Plan Commission. At the hearing, the Plan Commission shall hear and receive information or recommendations presented by the Office of Planning and Development staff and/or its consultants, information presented by the applicant or the applicant's authorized agents and consultants, and information presented by members of the public. If the Plan Commission determines that additional time or information is required, the public hearing may be continued from time to time at the direction of the Commission. The applicant shall be given an opportunity to respond to any adverse information or recommendation.
- j Decision. After the hearing, the Plan Commission shall either grant or deny the permit application on the basis of express findings and conclusions. The Plan Commission shall condition any permit granted upon compliance with specified operational and reclamation requirements, including the minimum requirements of this section and the requirements of all other applicable Village ordinances, except as such requirements may be appropriately modified by the Commission, and the requirements of all other applicable Federal, State, and local statutes, rules, regulations, ordinances and permits relating to blasting, mining, land use, highway access, air pollution, water pollution, contamination of the ground, solid waste disposal, navigable waters, groundwater, wetlands, floodplains, shorelands, and other environmental matters. The Commission may impose requirements which are in addition to, or more stringent than, the



minimum requirements of this Section. In granting a permit, the Commission shall specify all aspects of the proposed plan of operations and plan of reclamation which are not approved. No application shall be granted unless the Commission first finds that the approved operations, as conditioned, will result in no significant loss, harm, or damage to neighboring property owners, to the Village, or to the public health, safety or welfare, nor serious risk of any such loss, harm or damage, and that the approved reclamation will result in a safe, useful, and aesthetically pleasing site. In deciding upon an application regarding an operation that pre-existed the effective date of this Section, and was active on the effective date of this Section, the Plan Commission shall take into account the nature, extent, circumstances, and past performance of the operation and shall modify the requirements of this section to the extent necessary to ensure that the permit requirements are reasonable under the particular circumstances.

- k Term of Permit. Permits shall be granted for an initial term of two (2) years. Thereafter, permits may be renewed by the Plan Commission for terms of two (2) years. Any permit issued pursuant to this section shall automatically terminate upon the abandonment of the quarry or other non-metallic mining operations.
- l Renewal. Applications for the renewal of a permit shall be filed with the Village Clerk/Treasurer not later than ninety (90) days prior to the expiration date. Any information or materials required for an initial permit application shall be supplied with the application for renewal to the extent that such information or materials were not supplied with the prior application or to the extent that the previously supplied information or materials are out of date or no longer accurate and complete. Such an application shall be processed in the same manner as an initial permit application. In the event that a timely renewal application is not decided by the expiration date of the permit, the permit shall be deemed to be extended to the date of the Commission's decision.
- m Amendment. In the event that the operator desires to make any material modification in the permitted operation or reclamation, the operator shall file with the Village Clerk/Treasurer an application for an amendment to the permit. Such application shall describe in detail the proposed modification, explain the effects of the proposed modification, supplement and update the information and materials submitted with the prior application and make the certification required for renewal applications. Such an application shall be processed in the same manner as an initial permit application.
- n Review and Monitoring Fees. The applicant shall pay a fee equal to the cost of any administrative, legal, engineering, or consultant work which may be undertaken by the Village in the review of a quarrying or non-metallic mining permit application. Such fee may include the cost of any monitoring activity set forth as a condition of the permit issued.

- o Security. As a condition of any permit issued pursuant to this Section, the Plan Commission shall require, and the operator shall promptly deposit with the Village, an irrevocable letter of credit, cash, a bond or other security in an amount adequate to secure the obligation of the operator to restore the site to a safe, useful and aesthetically pleasing condition, in accordance with the approved restoration plan, to the extent of the mining operations if the operations were abandoned during the term of the permit. Any security instrument shall be in a form satisfactory to the Village Attorney and shall be issued by a person satisfactory to the Village Attorney. Any cash deposited with the Village shall be deposited in a segregated interest bearing account and shall be used only for the required restoration. Any security shall be promptly released or returned to the operator, with any accrued interest, at the completion of the approved reclamation to the satisfaction of the Plan Commission. The termination, expiration, or modification of a security instrument, in the absence of a renewal or replacement thereof or the making of other arrangements satisfactory to the Plan Commission after review by the Village Attorney, shall be grounds for suspension of the operator's permit.
- p Transfer. Permits issued under this section may be transferred only with the prior written approval of the Plan Commission. Such approval shall not be unreasonably withheld, but the Commission shall not approve any transfer in the absence of satisfactory arrangements regarding security and the prompt correction of any prior failure to comply with permit requirements.
- q Minimum Standards. The following are minimum standards for all operations commenced after the effective date of this Section, and to the extent reasonable, for all pre-existing operations contained thereafter.

  - 1) The minimum setback of any excavation shall be two hundred (200) feet from any street right-of-way or property line. When the operations adjoin residentially developed land or residentially zoned land, the Commission shall carefully consider whether greater setbacks are required.
  - 2) The minimum setback of any building, structure, storage area, parking area, or stockpile shall be one hundred (100) feet from any street right-of-way or property line.
  - 3) Access ways and roads shall be maintained in a dust free condition either by oiling or by spraying with calcium chloride.
  - 4) All operations shall be conducted in a safe manner, especially with respect to hazards to persons, damage to adjacent lands or improvements, and damage to any street by slides, sinking, or collapse of supporting soil adjacent to an excavation. No extractive operation

shall be conducted in a manner so as to lower the water table of surrounding properties.

- 5) No plan of reclamation shall be approved unless it will result in a safe, useful, and aesthetically pleasing site.
- 6) No reclaimed slope shall exceed a four (4) to one (1) ratio of horizontal distance to vertical distance; provided, however, that this requirement shall not apply to rock faces, and further provided that the Plan Commission, for good cause shown, may modify this requirement.
- 7) After completion of operations, and in accordance with the approved rehabilitation map, the premises shall be cleared of debris, and a layer of soil capable of supporting vegetation shall be spread over the premises to a depth of at least six (6) inches, (except for areas under water) and shall be seeded with grass or other ground cover to prevent erosion.

105 Railroad depots in the B-2 and I-1 Districts.

- a A detailed site plan shall be presented to the Plan Commission and shall include the location of storage of any hazardous fuels and materials.
- b A detailed plan of operation shall be presented to the Plan Commission and shall include a plan for the security, fencing, lighting, and safety of individuals in the area.
- c The depot shall be located in such a manner as to preclude trains at a stop from interfering with any motor vehicle traffic.

106 Railroad Line construction and maintenance in the C-1 and C-3 District, provided that:

- a The railroad lines cannot as a practical matter be located outside of a wetland; and
- b Any filling, excavating, ditching, or draining that is to be done must be necessary for such construction or maintenance and must be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands.

107 Railroad terminals and freight yards in the M-2 District.

- a Those requirements set forth for the granting of a conditional use permit for railroad depots in the B-2 and I-1 Districts shall be complied with.

- b An impact statement may be required by the Plan Commission detailing the impact of such terminal or freight yard on other proper-ties in the general area.
- c All outside storage of material shall be securely fenced.
- d Repairs of cars and locomotives shall be indoors.
- e Storage of junk parts shall not be permitted on the site.
- f Salvaging operations shall not be permitted on the site.
- g Internal roads, parking and loading areas shall be paved with dust free materials, such as concrete or asphalt or oiled so as to keep the area in a dust free condition.
- h A stormwater drainage plan prepared by a certified engineer shall be submitted to the Plan Commission for approval.
- i Ingress and egress to the premises and location of loading docks shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.

108 Recreational vehicle (RV) campground or subdivisions in the PR-1 District.

- a Recreational vehicle campgrounds and subdivisions are uses of land which require a unique site and direct accessibility. Generally, sites should be of such character that they are naturally well-screened by existing natural planting which affords primary seclusion. The use of lands for recreational vehicle parks inherently expresses the fact of minimum impact upon adjoining land uses. The express concern of an adequate site and direct accessibility from major thoroughfares are important factors which shall be considered in site selection and the final determination of an acceptable site for a recreational vehicle campground or subdivision.
- b The site shall contain at least twenty (20) acres and have an average width of a least three hundred (300) feet.
- c The site shall have direct access to a federal, state or Village highway.
- d A site plan of one (1) inch equals one hundred (100) feet, showing all improved lots, unimproved lots, structures, parking areas, roads, walkways, recreational areas and other service facilities shall accompany the application.
- e A preliminary drainage and utility plan shall be in compliance with the on-site detention regulation.

- f Each recreational vehicle campground or subdivision shall be completely enclosed, except for permitted entrances and exits by:
- 1) A temporary planting of fast growing material, capable of reaching a height of ten (10) feet or more and
  - 2) A permanent evergreen planting, the individual trees to be of such number and so arranged that within ten (10) years they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than ten (10) feet.
- g When the recreational vehicle campground or subdivision ceases to operate, accessory uses shall immediately cease.
- h The development may be developed for sale or rental, or may be developed as a condominium pursuant to Chapter 703, Wis. Stats., and amendments thereto.
- i RV developments shall be located on public sanitary sewer facilities except that where the development is based on rental sites and the development does not result in a permanent subdivision of land and the sale of lots or sites in fee simple absolute, said development shall be located on public sanitary sewer facilities or shall be served by a private treatment system approved by the Wisconsin Department of Natural Resources and the Wisconsin Department of Health and Social Services or Department of Industry, Labor and Human Relations--Plumbing Section, or any other applicable governing agencies.
- j RV developments shall be supplied by municipal or community water facilities or high capacity well.
- k RV developments shall, under no circumstances, in the case of recreational vehicle development as fee simple lots or RV condominiums, have a density exceeding 6.5 units per gross acre maximum and twenty (20%) percent of the total acreage shall be maintained in common open space areas. When a campground is developed on a basis of rental sites, such development shall, under no circumstances, have a density exceeding twelve (12) units per gross acre maximum.
- l A general development plan for all proposed phases of development and a plan of operation shall be submitted with the application for a conditional use permit. Detailed plans shall be submitted before each phase is to be approved.
- m Developers shall submit for approval to the Plan Commission before each proposed phase is to be approved a detailed landscaping plan along with a list of the type, number and size of the plantings with a time table for planting. The landscape plan must provide for sufficient screening and tree planting between

individual lots or sites and between lots or sites in all common open space areas. Said landscape plan shall also be reviewed by the USDA Natural Resources Conservation Service for their recommendation with respect to minimizing soil erosion.

- n All RV developments shall conform to the standards of the Village Subdivision Control Ordinance, of the Village Municipal Code as they pertain to this type of development when practicable, except that the standards of Floodlands and Lots shall not apply except as modified and provided for herein and also that modifications may be made with respect to the following items:
  - 1) Minimum lot size shall be no less than four thousand (4,000) square feet per lot with a minimum lot width of fifty (50) feet at the road and fifty (50) feet wide at the RV pad. Frontage requirements may vary on cul-de-sacs, and curves with a centerline radius of two hundred (200) feet or less, provided that the lot still maintains a minimum width of fifty (50) feet at the RV pad and a lot area of four thousand (4,000) square feet and in no case shall a lot be less than twenty (20) feet at the street.
  - 2) All public or private streets shall have a minimum right-of-way of sixty-six (66) feet. Cul-de-sacs shall have a minimum radius of sixty (60) feet.
  - 3) A lot may be located on a private street provided that the street meets town standards as they may pertain to pavement width and pavement construction materials.
- o An RV development may have one (1) single-family residential dwelling unit with the development when used as the caretaker facility.
- p Lots within an RV development shall under no circumstances be used or combined with other lots to create a residential building site.
- q All RV developments shall have extensive deed restrictions which will be furnished to the Plan Commission for approval and will further be enforced by the owners through a property owners association provided for in the deed restrictions. These restrictions shall govern the use of all lots or sites, open space areas and all amenities which are to be part of the development. Where the development creates lots of fee simple absolute or condominiums on the face of the plat, it shall further state that all lots, sites, or open space areas may not be used or combined for residential, commercial or industrial development.
- r No more than one (1) RV vehicle shall be located on a lot or site. Where lots are developed in fee simple absolute or condominiums, additional RV spaces shall be provided in a common overflow parking area having the necessary water and sanitary sewer facilities at a ratio of one (1) space for every ten (10) lots or sites

for visitors or guests' RV vehicles. Overflow RV parking shall not be computed as part of the overall density. An RV development shall have, for both sales and rental, at least two (2) auto parking spaces per lot or site with common overflow or parking area in a ratio of one (1) space for every ten (10) lots or sites. Tents may be permitted on RV lots or sites.

- s RV developments may have major accessory structures such as clubhouses, athletic facilities, shelters, restrooms, and major storage facilities located in common open space areas or outlots provided that they meet the necessary setback requirements of this Ordinance and in addition, that setbacks of not less than thirty (30) feet be provided from the right-of-way of all private streets.
- t RV sites may have one (1) open deck no larger than three hundred (300) square feet in area and/or one (1) private storage building no larger than eighty (80) square feet in area and eight (8) feet in height placed on each lot or site provided that it meets all necessary requirements as outlined in the deed restrictions which are approved by the Plan Commission as it may pertain to design, dimensions and materials permitted for construction. Setbacks of not less than five (5) feet from all lot lines and thirty-eight (38) feet from the center line of street rights-of-way shall be provided. A zoning permit will be required for every open deck and/or storage building. Fences will only be permitted for a total development project and not for individual lots.
- u RV developments may have one (1) commercial facility per development, such as a small convenience store, restaurants, snack bar, etc., located on the complex when designed for use by occupants only. Under no circumstances may this facility advertise for general street trade.
- v No RV lot or lots shall be used or converted for the use of a mobile home and/or mobile home parks.
- w RV development management shall prohibit the use of RVs that are not operable and currently licensed and further shall prohibit the use of enclosures, foundations or other means which tend to make the RV unit less mobile.
- x Additional restrictions or requirements may be imposed by the Plan Commission and impact statements as deemed necessary by the Plan Commission may be required.
- y Lots in the PR-1 Park Recreational District shall provide sufficient area for the principal structure or use, and its accessory structures, off-street parking and loading, the disposal of sanitary waste if a public sanitary sewage system is not required.
- z No building or part of a building shall exceed thirty-five (35) feet in height.

- aa A minimum street yard (setback) of sixty-five (65) feet from the right-of-way of all State trunk or Village trunk highways, and forty (40) feet from all other roads shall be required.

A minimum shore yard not less than seventy-five (75) feet from the high water elevation of any navigable water.

No building or structure shall be erected, placed, or moved closer than forty (40) feet to any other lot line.
  - bb Every builder of any building hereafter erected or structurally altered in the PR-1 Park Recreational District shall, before a building permit is issued, present detailed plans and specifications of the proposed structure to the Plan Commission, who will approve said plans only after determining that the proposed building will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion or otherwise endanger the public health or safety, or substantially diminish or impair property values within the community.
- 109 Recreational vehicle, motor home or similar large size equipment or vehicle sales involving extensive outdoor display and storage in the B-3 District.
- a Those requirements set forth for the granting of a conditional use permit for automotive sales, service and repairs in the B-2 and B-3 Districts shall be complied with.
  - b A detailed site plan and stormwater drainage plan shall be submitted to the Plan Commission for approval with said plans taking into consideration security, fencing, lighting, location of signs, and traffic and parking proposals.
- 110 Recycling centers and warehousing of recovered resources in the M-2 and M-4 Districts.
- a A site plan and plan of operation shall be submitted to the Plan Commission.
  - b Reclamation of sewage sludge, food wastes, and other organic material is prohibited.
  - c Reclamation of carcinogens and other hazardous wastes is prohibited.
- 111 Refineries in the M-2 District.
- a Those requirements set forth for the granting of a conditional use permit for petroleum bulk stations and terminals in the M-1 and M-2 Districts shall be complied with.
- 112 Rendering plants in the M-2 District.



- a Those requirements set forth for the granting of a conditional use permit for animal reduction in the M-2 District shall be complied with.
- 113 Resorts in the PR-1 District.
- a A statement of intent outlining the type of recreational activities and facilities to be located on the site shall be presented to the Plan Commission.
  - b A detailed site plan shall be presented to the Plan Commission along with proposals for sanitary facilities.
  - c Any approval granted must be in conformance with the restrictions of the liquor license issued for the establishment.
- 114 Restaurants or taverns or cabarets (with live entertainment) in the B-3 District.
- a Ingress and egress to the premises shall be determined with due regard to topography geographical relationship to residential areas and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
  - b There shall be strict compliance with those performance standards set forth in this Ordinance relating to noise, and where circumstances warrant, the performance standards in this Ordinance relating to noise may be expanded.
  - c There shall be strict compliance with all state and local laws relating to liquor and/or malt beverages and all local ordinances relating to cabarets.
- 115 Restaurants, bars and taverns with outdoor dining, recreation, entertainment in the B-2 and B-3 Districts.
- a A site plan shall be submitted showing all proposed outdoor use areas including parking, landscaping and the location of existing structures.
  - b Hours of use may be limited to prevent disturbance to abutting property owners.
  - c Lighting may be limited to prevent disturbance to abutting property owners.
  - d There shall be no outside music speakers or live music.
  - e Any approval granted must be in conformance with the restrictions of the liquor license issued for the establishment.
- 116 Retail or Wholesale Sales of Manufactured Products on Premises in the M-1 and M-2 Districts.

- a All sales shall be in an enclosed structure separate from those structures wherein the products being sold are manufactured.
- 117 Riding stables and indoor riding arenas (public) in conforming A-1, A-2, and A-4 Districts.
  - a A detailed site plan and a plan of operation which details the operation shall be presented to the Plan Commission.
  - b Adequate provisions shall be made for the proper disposal of animal waste.
- 118 Road construction and maintenance in the C-1 and C-3 District, provided that:
  - a The road is necessary to the conduct of agricultural cultivation or to a silvicultural activity;
  - b The road cannot as a practical matter be located outside the wetland;
  - c The road is designed and constructed to minimize adverse impact upon the natural functions of the wetland;
  - d The road is designed and constructed with the minimum cross-sectional area practical to serve the intended use;
  - e Road construction activities are carried out in the immediate area of the roadbed only.
- 119 Road and driveway construction and maintenance in the C-3 District provided that:
  - a The road or driveway is necessary to the continuity of a planned urban street system;
  - b The road or driveway cannot as a practical matter be located outside the wetland;
  - c The road or driveway is designed and constructed to minimize adverse impact upon the natural functions of the wetland and on wetland values (See Section ZN 8.02(2)(b));
  - d The hydrologic continuity of a wetland traversed by a road or driveway shall be maintained through use of an appropriate culvert;
  - e The road or driveway is designed and constructed with the minimum cross-sectional area practical to serve the intended use. Driveways should not be wider than twelve (12) feet, and where practical, adjacent properties should share a single access;

- f Road and driveway construction activities are carried out in the immediate area of the roadbed only. Roads and driveways should be protected by a stable side slope of one on two (1:2);
- g The Wisconsin Department of Natural Resources (DNR) may exercise preemptive procedures as set forth in Section ZN 8.02(2)(c) where roads or driveways may have an adverse impact upon the criteria listed in Section ZN 8.02(2)(b).

120 Road test facilities in the M-2 District.

- a A detailed site plan shall be presented to the Village Plan Commission for approval, with said plan specifying the location for the storage of hazardous fuels.
- b The site shall contain a minimum of thirty (30) acres and there shall be a minimum setback of four hundred (400) feet from any boundary line.
- c There shall be strict compliance with the performance standards set forth in this Ordinance for noise control and where circumstances warrant, the standards set forth in this Ordinance for noise control may be expanded upon.
- d The Village Plan Commission may restrict the hours of operation of the facility.
- e Lighting shall not be permitted to shine upon adjacent property.
- f The facility shall not be used for any form of public entertainment and shall be closed to the public during road testing.

121 Rummage sales and flea markets (permanent) in the B-3 District.

- a The site shall be securely fenced and adequately lit at night with the provision, however, that no night lights shall be permitted to shine upon adjoining property.
- b A site plan shall be presented to the Plan Commission which shall delineate all sanitary facilities, fire lanes, parking, and proposed traffic routes.
- c There shall be strict compliance with the performance standards set forth in this Ordinance for noise, and where circumstances warrant, stricter standards may be imposed by the Plan Commission for noise control.
- d No permanent structure shall be permitted on the site.
- e No camping shall be permitted on the site.

122 Sanitary landfill operations in the M-4 District.

- a A statement of intent shall be presented to the Village Plan Commission indicating the type of material that will be placed on the site and whether or not said material is deemed hazardous, and the manner in which the material is to be buried.
- b An impact statement shall be required addressing itself to the impact of the sanitary landfill operation on the surrounding environment, community, and economy.
- c A stormwater drainage and tile plan prepared by a certified engineer shall be submitted to the Village Plan Commission.
- d A detailed restoration plan and time table shall be submitted to the Village Plan Commission. In the alternative, the applicant may satisfy this condition by meeting the requirements of §144.443 and §144.444, Wis. Stats., concerning financial responsibility and transference of responsibility. Evidence of satisfying this condition may be provided to the Village Plan Commission.
- e All state and/or federal licenses and permits shall be submitted to the Village Plan Commission and all Federal and State laws and regulations shall be complied with.
- f The requirements set forth in the Wis. Admin. Code §NR 151 (§NR 180) as amended from time to time shall be complied with and the issuance of a conditional use permit shall be conditioned on such compliance.
- g A detailed site and sanitary plan shall be presented to the Village Plan Commission as well as a method of maintaining records of the source and type of waste deposited on the site and its location and date of deposit.
- h Sanitary landfills shall not be permitted within one thousand two hundred (1,200) feet of a residence or within a conservancy or floodplain district, nor shall such landfill be permitted within three hundred (300) feet of any shoreland area. In addition, sanitary landfills shall not be permitted within one thousand two hundred (1,200) feet of any private or public water supply. To the extent that no environmental harm will occur, the Village Plan Commission may grant a variance to any of the aforesaid separation requirements.
- i The landfill owner/operator shall post a performance bond to insure proper operation, closure and long-term care of the proposed site. Compliance with §144.443, Wis. Stats., concerning "financial responsibility," as amended from time to time, shall satisfy this condition.

An additional bond shall be furnished to the Village to insure against possible road damage to nearby roads due to heavy trafficking of materials.

- j Periodic inspections shall be made from time to time by the Village.
- k The sanitary landfill shall be completely enclosed, except for permanent entrances and exits by either:
  - 1) A temporary planting of fast growing material, capable of reaching a height of ten (10) feet or more and
  - 2) A permanent evergreen planting, the individual trees to be of such number and so arranged that within ten (10) years, they will have formed a dense screen. Such permanent planting shall be grown or maintained to a height of not less than ten (10) feet.
- l The conditional use permit may be revoked in accordance with the procedures set forth in Section ZN 5.03(7) of this Ordinance.
- m In addition, any of the applicable requirements for granting a conditional use permit for mining or extraction of rock, etc., in the M-3 District may be required.
- n All Environmental Protection Agency regulations shall be complied with respect to, but not limited to:
  - 1) Contamination of ground and underground water.
  - 2) Limitation of explosive gases within landfill structures.
  - 3) Monitoring.
  - 4) Obtaining water pollution discharge permits.
  - 5) Collection and treatment of leachate before discharge.
  - 6) Control of rats, flies, and mosquitos.
  - 7) Daily covering of waste material.
  - 8) Air quality and open burning of waste except for special wastes, as for example, brush, or emergencies.
  - 9) Security.
  - 10) Availability of water or dirt to control accidental or permitted fires.

- 11) Restriction of flood waters or reduction of water storage capacity of floodplains.
- 12) Bird hazards in the vicinity of airports.
- 13) Modifications of species habitat or interference with migration.
- 14) Hazardous wastes regulations.

123 School auditoriums, gymnasiums and stadiums in the I-1 District.

- a At least one (1) off-street parking space shall be provided for every three (3) seats located within the auditorium, gymnasium or stadium.
- b Ingress and egress to the premises shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- c Night lighting shall not shine on adjoining property.
- d In the case of outdoor stadiums, the parking area shall be paved or maintained in a dust free condition.

124 Second single-family, farm related residential dwelling in the A-1 and A-4 Districts.

- a The need for more than one (1) single-family dwelling to support and carry on the permitted or approved conditional use must be established to the satisfaction of the Plan Commission before issuance of the conditional use permit. If approval is granted for a second farm dwelling, the additional dwelling shall be placed on a parcel separated from the farm parcel.
- b A second farm dwelling shall provide a minimum lot area of five (5) acres and no parcel shall be less than three hundred (300) feet in width at the highway right-of-way line. If any such aforementioned dwellings are provided with municipal sanitary sewerage services, the lot area requirement may be reduced to a minimum of twenty thousand (20,000) square feet and the lot width shall be not less than one hundred twenty-five (125) feet. Any new five (5) acre parcel created as described above for a second single-family dwelling shall be approved only if it is located as contiguous as possible to existing lots or dwellings on the subject or adjacent ownerships.
- c The second single-family farm dwelling shall be occupied by a person who, or a family at least one (1) member of which earns a substantial part of his or her livelihood, as defined in this Ordinance, from farm operations on the parcel or is a parent or child of the operator of the farm.

- d The only accessory uses permitted in conjunction with the second single-family farm related residential dwelling shall be a garage or carport and home occupations.
- 125 Ship and boat building and repair in the M-2 District.
  - a A detailed site plan shall be presented.
  - b Any outside storage of material shall be securely fenced.
  - c Ingress and egress to the premises and the location of loading docks shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- 126 Skeet and trap shooting ranges in the PR-1 District.
  - a In addition to all applicable conditional use standards for archery and firearm ranges (outdoors) in the PR-1 District, skeet and trap shooting ranges must:
    - 1) provide shot fall zones directed toward the interior of the property extending six hundred sixty (660) feet.
    - 2) continue at least one hundred (100) contiguous acres; and
    - 3) only use steel or other non-toxic shot regulations for shooting over wetland areas.
  - b The Plan Commission may restrict the hours of operation between 11:00 o'clock p.m. and 6:00 o'clock a.m.
  - c Lighting shall be designed to minimize their impact on adjacent property.
  - d Proper and recognized signals shall be used in the operation of the range.
  - e A detailed site plan shall be submitted to the Plan Commission.
- 127 Snowmobile trails in the PR-1 District.
  - a A detailed site plan shall be presented to the Plan Commission indicating thereon access and exit points on the trail.
  - b The trail shall be posted with proper speed limits and warning signs as deemed necessary.
- 128 Sportsmen clubs in the PR-1 District.

- a A detailed site plan shall be presented to the Plan Commission.
  - b The site shall be posted at least every one hundred (100) feet as a sportsmen's club.
  - c Impact statements as deemed appropriate by the Plan Commission may be required.
- 129 Stockyards in the M-2 District.
- a Those requirements set forth for the granting of a conditional use permit for animal reduction in the M-2 District shall be complied with.
  - b Impact statements as deemed necessary by the Village Plan Commission may be required.
  - c The site shall be securely fenced as deemed appropriate by the Village Plan Commission.
  - d A stormwater drainage plan prepared by certified engineers shall be submitted to the Village Plan Commission.
  - e Ingress and egress to the premises and the location of loading docks shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- 130 Storage of mineral products or machinery in the M-3 District.
- a The site shall be securely fenced as deemed appropriate by the Plan Commission.
  - b A stormwater drainage plan prepared by a certified engineer shall be submitted to the Plan Commission.
- 131 Storage of recreational vehicles, boats or snowmobiles in the A-1, A-2 and A-4 Districts.
- a Storage of more than two (2) recreational vehicles and/or boats or snowmobiles shall be within an enclosed structure.
- 132 Summer theaters and amphitheaters or band shells in the PR-1 District.
- a A detailed site plan shall be submitted to the Plan Commission along with the proposed hours of operation and seating capacity on the premises.



- b At least one (1) off-street parking space shall be provided for every three (3) seats located within the theater, amphitheater or band shell.
- c The site shall have direct access to federal, state or Village highways.
- d An application for a conditional use permit shall be accompanied by a report setting forth the proposed operation of the theater, amphitheater or band shell.
- e Ingress and egress to the site shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- f Parking areas shall be maintained in a dust free condition and where paved, a stormwater drainage plan shall be submitted to the Plan Commission.
- g Night lighting shall not be permitted to shine on adjacent property.
- h Proposals for water and sanitation facilities and emergency services shall be reviewed by the Plan Commission.
- i Increased performance standards with respect to noise may be required as deemed necessary.

133 Taverns (with no live entertainment) in the B-1 District.

- a Ingress and egress to the site shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- b Performance standards set forth in this Ordinance as they relate to noise control shall be complied with, and where deemed appropriate, the Plan Commission may establish stricter performance standards relating to noise control.

134 Truck stops, sales and service in the B-3 District.

- a A detailed site plan shall be submitted to the Plan Commission and shall include therein the location of storage facilities for all fuels and other hazardous materials.
- b Ingress and egress to the premises shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- c All repair work shall be done within enclosed structures.
- d All street yard, side yard and rear yard setbacks shall be at least one hundred (100) feet.

- e Night lights shall not be permitted to shine on adjacent property.
  - f All parking areas and roadways shall be maintained in a dust free condition and where paved, a stormwater drainage plan shall be submitted to the Plan Commission by a certified engineer.
- 135 Utilities and substations in the M-3 District.
- a Environmental and economic impact statements shall be required by the Plan Commission.
  - b A detailed site plan shall be presented to the Plan Commission.
  - c A stormwater drainage plan prepared by a certified engineer shall be presented to the Plan Commission.
  - d The site shall be securely fenced and marked with appropriate warning signs.
  - e Failure to comply with the performance standards set forth in this Ordinance shall be grounds for revocation of the conditional use permit.
- 136 Utility Construction and Maintenance, including electric, gas, telephone, water and sewer transmission and distribution facilities, by public utilities and cooperative associations organized for the purpose of producing or furnishing heat, light, power or water to their members, in the C-1 District, provided that:
- a The transmission and distribution facilities cannot, as a practical matter, be located outside the wetland;
  - b Such construction or maintenance is done in a manner designed to minimize adverse impact upon the natural functions of the wetland.
- 137 Utility facilities (except buildings and substations) such as underground watertight conduits, telephone and electric poles, etc., constructed in conformance with Wis. Admin. Code §NR 116.17 in the FPO District, provided that:
- a Those requirements set forth for the granting of a conditional use permit for bridges and approaches in the FPO District shall be complied with.
- 138 Utility substations, microwave relay stations, and cellular relay stations in the A-1, A-2, A-3, A-4, R-1, R-2, R-3, R-4, R-4.5, R-5, R-6, R-7, R-8, R-9, R-10, R-11, R-12, B-1, B-2, B-3, B-4, M-1, M-2, I-1 and C-2 Districts.
- a All utility substations, microwave relay stations, and cellular relay stations shall be securely fenced and marked with appropriate warning signs.

- b The height of tower-mounted utility substations, microwave relay stations, and cellular relay stations shall not exceed three (3) times their distance from the nearest property line.
- 139 Washing, refining or processing of rock, slate, gravel, sand or minerals processed from the top soil in the M-3 District
  - a A detailed site plan and impact statements shall be presented to the Plan Commission along with a stormwater drainage plan prepared by a certified engineer.
  - b Impact statements as deemed appropriate by the Village Plan Commission may be required.
  - c Ingress and egress to the premises shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance. Roads shall be maintained in a dust-free condition.
- 140 Water storage tanks and towers and radio and television transmitting and receiving towers in the B-5 and I-1 Districts.
  - a Towers shall not be located closer than fifty (50) feet to any structure.
  - b All towers shall be securely anchored and lit with warning lights as deemed appropriate.
  - c All federal and state licenses shall be filed with the Planning and Development Administrator's office.
  - d Water tanks and water towers are exempt from the height limitations of this Ordinance. The height of radio and television transmitting and receiving towers shall not exceed three (3) times their distance from the nearest property line.
- 141 Water withdrawal and diversion uses in shoreland areas. (See Section ZN 3.10(6) of this Ordinance)
- 142 Wildlife ponds in the C-1 District, provided that:
  - a Any excavating, ditching, dredging, or draining that is to be done must be necessary for such construction and shall be done in a manner designed to minimize flooding and other adverse impacts upon the natural functions of the wetlands. Any excavating, ditching, dredging, or draining shall be for the purpose of improving wildlife habitat and to otherwise enhance wetland values.

- b Wildlife ponds shall not exceed an average depth of five (5) feet and side slopes shall not exceed a gradient of one (1) foot vertical to five (5) feet horizontal.
  - c Spoils from pond construction shall not be deposited or disposed of within the C-1 District.
- 143 Wind energy conversion systems, commonly called "windmills", in the A-1, A-2, A-3, A-4, R-1, I-1, PR-1 and C-2 Districts.
  - a The site area shall be a minimum of five (5) acres.
  - b Applications for the erection of a wind energy conversion system shall be accompanied by a plat of survey for the property to be served showing the location of the generating facility and the means by which the facility will provide power to structures. If the system is intended to provide power to more than one (1) premise, the plat of survey shall show all properties to be served and the means of connection to the wind energy conversion system. A copy of all agreements with system users off the premises shall accompany the application. The application shall further indicate the level of noise to be generated by the system, and provide assurances as to the safety features of the system.
  - c Wind energy conversion systems shall be constructed and anchored in such a manner to withstand wind pressure of not less than forty (40) pounds per square foot in area.
  - d The maximum level of noise permitted to be generated by a wind energy conversion system shall be fifty (50) decibels, as measured on a dB(A) scale, measured at the lot line.
  - e Wind energy conversion system generators and alternators shall be filtered and/or shielded so as to prevent the emission of radio-frequency energy that would cause any harmful interference with radio and/or television broad-casting or reception. In the event that harmful interference is caused subsequent to the granting of a conditional use permit, the operator of the wind energy conversion system shall promptly take steps to eliminate the harmful interference in accordance with Federal Communications Commission regulations.
  - f Wind energy conversion systems shall be located in the rear yard only and shall meet all setback and yard requirements for the district in which they are located and, in addition, shall be located not closer to a property boundary than a distance equal to their height. Wind energy conversion systems are exempt from the height requirements of this Ordinance, however, all such systems over seventy-five (75) feet in height shall submit plans to the Federal Aviation

Administration (FAA) to determine whether the system is to be considered an object affecting navigable air space and subject to FAA restrictions. A copy of any FAA restrictions imposed shall be included as a part of the wind energy conversion system conditional use permit application.

- g All wind energy conversion systems shall be surrounded by a security fence not less than six (6) feet in height. A sign shall be posted on the fence warning of high voltages.
- h The appropriate electric power company shall be notified, in writing, of any proposed interface with that company's grid prior to installing said interface. Copies of comments by the appropriate utility company shall accompany and be part of the application for a conditional use permit.

144 Wrecking, junk, demolition and scrap yards in the M-2 District.

- a Any wrecking, junk, demolition and scrap yard, or salvage yard for which permission is granted under this section shall at all times be subject to the performance standards established in this Ordinance. Failure to comply with said performance standards shall be grounds for revocation of the conditional use permit.
- b All outdoor storage areas shall be screened or fenced with a solid fence at least six (6) feet, but not more than eight (8) feet in height or enclosed with a dense evergreen growth at least six (6) feet in height. Storage between the street and such fence or screen is expressly prohibited.
- c Any junk or salvage yard which offers to the public at retail any new or used merchandise shall provide at least two (2) parking spaces per one hundred (100) square feet of retail floor space.
- d All ingress and egress to the premises shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- e No wrecking, junk, demolition or scrap yard shall be located within one thousand (1,000) feet of any navigable body of water or shoreland area.
- f There shall be proper and adequate control of all rodents.
- g There shall be strict compliance with Chapter 9 of the Village Code of General Ordinances and the requirement set forth therein for motor vehicle wrecking yards.

- h A performance bond shall be required by the Plan Commission to insure compliance with the conditions set forth by the Plan Commission and which conditions form the basis for the granting of a conditional use permit.

A corporate surety bond shall be furnished to the Village to assure compliance with the approved rehabilitation map and plan. The bond shall be in an amount to be determined by the Commission sufficient to cover twice the projected expenses of such rehabilitation at the time that the rehabilitation is to occur according to the plan of the applicant. A termination date for the completion of operations and the rehabilitation of the tract shall be imposed at the time of approval based upon the estimated length of time the operation will be necessary.

An additional bond shall be furnished to the Village to insure against possible road damage to nearby roads due to heavy trafficking of materials.

- i The conditional use permit shall be in effect for a period not to exceed two (2) years and may be renewed upon an application for a period of an additional two (2) years by the Plan Commission upon review of the performance of the operations. Modifications or additional conditions may be imposed upon application for renewal including an increase in the amount of any surety bond.
- j No junk yard shall be permitted to operate in violation of §84.31 and §175.25, Wis. Stats.

145 Zoological and botanical gardens in the PR-1 District.

- a A detailed site plan shall be presented to the Plan Commission setting forth in detail the location of all structures, sanitary facilities, etc.
- b Ingress and egress to the premises shall be determined with due regard to topography and public road and pedestrian traffic taking into consideration hills, curves, speed limits and vision clearance.
- c Night lights shall not be permitted to shine on adjoining or adjacent property.
- d There shall be only off-street parking provided for.
- e In the case of zoological facilities, the site shall be securely enclosed and the Plan Commission shall review the security system to be used on the premises for the containment of animals, reptiles, etc.

## **CHAPTER 6**

### **ENFORCEMENT**

ZN 6.01	Bonds
ZN 6.02	Violations, Injunction, Abatement and Removal
ZN 6.03	Proceedings
ZN 6.04	Penalties
ZN 6.05	Liens





## **ZN 6.01 BONDS.**

The Plan Commission may require that a performance bond or letter of credit be obtained for the benefit of the Village and filed with the Village so as to insure compliance with the terms of this Ordinance or a permit. In setting the amount of the bond or letter of credit, consideration should be given to 1) the purpose of the bond or letter of credit, 2) the use to which any forfeited money is to be applied, and 3) the time when it may be applied and any increased costs due to time or inflation that may be incurred by the Village in the event of non-compliance with this Ordinance or the terms of a permit or that may be incurred for purposes of rehabilitation. The amount of the bond may be subject to further review. Failure to obtain or maintain such bond or letter of credit shall invalidate any permit.

## **ZN 6.02 VIOLATIONS, INJUNCTION, ABATEMENT AND REMOVAL.**

It shall be unlawful to construct, develop or use any structure, or develop or use any land, water or air in violation of any of the provisions of this Ordinance or order of the Plan Commission or Board of Adjustment. In case of any violation, the Village Board of Trustees, the Village Attorney, the Director of Planning and Zoning, the Plan Commission, or any owner of real estate within the district affected who would be specifically damaged by such violation may institute appropriate legal action or proceedings to enjoin a violation of this Ordinance, or seek abatement or removal. In addition, those actions commenced on behalf of the Village may seek a forfeiture or penalty as outlined herein.

## **ZN 6.03 PROCEEDINGS.**

### **(1) CIVIL PROCEEDINGS.**

Pursuant to the provisions of §66.12, Wis. Stats., an action for violation of a municipal ordinance is deemed a civil action. Accordingly, Chapters 801 to 847, Wis. Stats., shall apply where applicable to violations of this Ordinance.

### **(2) VILLAGE ATTORNEY.**

The Village Attorney may in his discretion commence legal actions or proceedings as outlined above and may proceed pursuant to the proceedings outlined in §66.119, §66.12, or §288.10, Wis. Stats. or pursuant to the issuance of a summons and complaint.

### **(3) UNIFORM CITATION ORDINANCE.**

Pursuant to the Uniform Citation Ordinance of the Municipal Code of the Village of Somers, citations may be issued by the Planning and Development Administrator, or authorized deputies.

### **(4) SPECIAL INSPECTION WARRANTS.**

The provisions of §66.122 and §66.123, Wis. Stats., shall govern the issuance of all special inspection warrants.

### **(5) STATUTE OF LIMITATIONS.**

Pursuant to §893.21(4), Wis. Stats., any action to recover a forfeiture or penalty imposed by ordinance or regulation of the Village, when no other limitation is prescribed by law, shall be commenced within two (2) years of said violation. In those situations in which there occurs a continuing violation in

existence for more than two (2) years prior to the issuance of the complaint and wherein each day the violation exists continues to constitute a separate offense, no penalty may be imposed for each day of violation occurring more than two (2) years prior to the commencement of the action; a penalty may be imposed, however, for each day of violation occurring within the two (2) year period prior to the issuance of the complaint.

## **ZN 6.04 PENALTIES.**

### **(1) GENERAL PENALTIES.**

Any person, partnership, firm, or corporation who fails to comply with the provisions of this Ordinance or any order of the Department of Planning and Development issued in accordance with this Ordinance shall, upon conviction thereof, forfeit the sum of Fifty (\$50.00) Dollars and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and costs shall be imprisoned in the Village Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense.

Any person, partnership, firm, or corporation who fails to comply with the floodland district regulations of this Ordinance or any order of the Department of Planning and Development issued in accordance with the floodland regulations this Ordinance shall, upon conviction thereof, forfeit the sum of Fifty (\$50.00) Dollars and the cost of prosecution for each violation including court costs and reasonable attorney fees; and in default of payment of such forfeiture and costs shall be imprisoned in the Village Jail until payment thereof, but not exceeding thirty (30) days. Each day a violation exists or continues shall constitute a separate offense. Every violation of this Ordinance 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, Stats.

### **(2) SCHEDULE OF CASH DEPOSITS FOR VIOLATIONS CHARGED UNDER SECTION ZN 6.03(3).**

The cash deposit for the violation of any section or subsection of this Ordinance shall be One Hundred (\$100.00) Dollars. In addition, upon conviction, any person who has been found to have acted in violation of any of the above sections shall be liable for the costs of prosecution including court costs and reasonable attorney fees; and in default of payment of such forfeiture and costs, shall be imprisoned in the Village jail until payment thereof, but not exceeding thirty (30) days. For a second offense of a similar nature within a twelve (12) month period, the cash deposit shall be Two Hundred Fifty (\$250.00) Dollars and for a third offense of a similar nature within a twelve (12) month period, the cash deposit shall be Five Hundred (\$500.00) Dollars.

## **ZN 6.05 LIENS.**

In addition to all other remedies available at law, pursuant to Wisconsin Statutes, authorizing the Village Board to prescribe rules and regulations as it may deem necessary for the enforcement of the provisions of this Ordinance, judgment on convictions of violations of the terms of this Ordinance wherein a forfeiture or penalty is imposed shall be filed with the Register of Deeds Office for Kenosha Village and shall constitute a lien on the property and running with the property wherein the violation occurred and

shall be removed only upon payment of said penalty or forfeiture. Notice of the imposition of such a lien shall be given to the defendant and prior to the filing of the lien, the defendant shall be given ten (10) days to appeal to the court of the Village in imposing such a lien on the property wherein the violation occurred. Any judgment so filed with the Register of Deeds shall note thereon the imposition of such a lien and a legal description of the property so affected. Upon satisfaction or partial satisfaction of such judgment, notice of such satisfaction or partial satisfaction shall be filed with the Register of Deeds.



## **CHAPTER 7**

### **APPEALS**

ZN 7.01	Administrative Appeals
ZN 7.02	Variances Before the Board of Review
ZN 7.03	Judicial Review



## **ZN 7.01 ADMINISTRATIVE APPEALS.**

### **(1) MUNICIPAL ADMINISTRATIVE PROCEDURE.**

Chapter 68, Wis. Stats., Municipal Administrative Procedure, as hereinafter modified pursuant to the authority granted in §68.16, Wis. Stats., is hereby adopted by reference.

### **(2) DETERMINATIONS REVIEWABLE.**

The following determinations are reviewable under this chapter:

- (a) The granting or denial in whole or in part after application of an initial permit, (including a conditional use permit), license, right, privilege or authority, with the exception, however, of the granting or denial of a variance or any other decision of the Board of Adjustments and with the exception of any amendment made pursuant to Section ZN 8.01 of this Ordinance.
- (b) The suspension, revocation or non-renewal of an existing permit, license, right, privilege or authority.
- (c) Any decision of the historical preservation commission made pursuant to Section ZN 4.08(2) of this Ordinance.
- (d) The failure to list a particular principal or accessory use in Sections ZN 4.02 through Section ZN 4.08 of this Ordinance or the failure to list a home occupation in Section ZN 3.03(2) of this Ordinance.

### **(3) PERSONS AGGRIEVED.**

A person aggrieved includes any individual, partnership, corporation, association, public or private organization, officer, department, board, commission or agency of the municipality, whose rights, duties or privileges are adversely affected by a determination made pursuant to this Ordinance. No department, board, commission, agency, officer, or employee of the Village who is aggrieved by an administrative decision may initiate a review under this chapter of a determination of any other department, board, commission, agency, officer or employee of the Village. However, said department, board, commission, agency, officer or employee may respond or intervene in a review proceeding under this chapter initiated by another.

### **(4) WRITTEN DETERMINATIONS.**

If a determination that is reviewable under this section is made orally, or, if in writing, does not state the reasons therefore, the administrative authority making that determination shall, upon written request of any person aggrieved by such determination made within ten (10) days of notice of such determination, reduce the determination and the reasons therefore to writing and mail or deliver such determination and reasons to the person making the request. The determination shall be dated, and shall advise such person of the right to have such determination reviewed, the time within which such review may be obtained, and the office or person to whom a request for review shall be addressed. For purposes of this section, an authority making a determination is defined to include the Village Board and its Plan Commission, the Village Director of Planning and Development and his employees or deputies.

(5) **PETITION FOR REVIEW.**

Any aggrieved person may have a written or oral determination that was previously made reviewed by:

- (a) Forwarding a written request by mail or hand delivery to the authority which made the determination within thirty (30) days after having been advised and notified of such determination.
- (b) Including in said request for review the ground or grounds upon which the person aggrieved contends that the decision should be modified or reversed.
- (c) Requesting that the review shall be made by the officer, employee, agent, agency, committee, board, commission or body who made the initial determination.
- (d) Failure to make a request as noted above to the proper party shall not preclude the person aggrieved from review unless such failure has caused prejudice to the municipal authority.

(6) **INITIAL REVIEW.**

- (a) The request for review made to the officer, employee, agent, agency, committee, board, commission or body who made the initial determination shall review the initial determination within fifteen (15) days of the receipt of a request for review. This time for review may be extended by written agreement with the person aggrieved.
- (b) The person aggrieved may file with the request for review or within the time agreed with the municipal authority written evidence and argument in support of the person's position with respect to the initial determination.
- (c) The authority making the initial determination may affirm, reverse or modify the initial determination and shall mail or deliver to the person aggrieved a copy of the decision on review, which shall state the reasons for such decision. The decision shall advise the person aggrieved of the right to appeal the decision, the time within which appeal shall be taken and the office or person with whom the notice of appeal shall be filed. Appeals from a decision shall be taken within thirty (30) days of notice of such decision by filing with or mailing to the authority making the decision by written notice to the Village Board of Appeals.

(7) **ADMINISTRATIVE APPEAL HEARING.**

- (a) Time of hearing. Within fifteen (15) days of the receipt of the notice of appeal filed pursuant to Section ZN 7.01(6)(c) of this Ordinance an administrative appeal hearing shall be held. The Village Department of Planning and Development shall serve the appellant with notice of such hearing before the Village Board by mail or personal service at least ten (10) days before such hearing.
- (b) Conduct of hearing. At the hearing, the appellant and the determining authority may be represented by counsel and may present evidence and call and examine witnesses and cross-examine witnesses of the other party. Such witnesses shall be sworn by the person conducting



the hearing before the Village Board which shall make the decision on the administrative appeal. The decision maker may issue subpoenas. The hearing may employ such other procedures as deemed applicable and appropriate and as set forth in Section ZN 7.02 of this Ordinance. In reviewing decisions pursuant to Section ZN 7.01(2) of this Ordinance dealing with similarities between intended principal and accessory uses and those provided for in the ordinance, the Village Board may make whatever use it deems advisable of the United States Government Office of Management and Budgets Standard Industrial Classification Manual in determining similarities.

- (c) Record of hearing. The person conducting the hearing or a person employed for that purpose shall take notes of the testimony and shall mark and preserve all exhibits. The person conducting the hearing may, and upon request of the appellant shall, cause the proceedings to be taken by a stenographer or by a recording device, the expense thereof to be paid by the Village Department of Planning and Development.

(8) **FINAL DETERMINATION.**

Within twenty (20) days of completion of the hearing conducted pursuant to Section ZN 7.01(7) and the filing of briefs, if any, the Village Board shall mail or deliver to the appellant its written determination stating the reasons therefore. Such determination shall be a final determination.

(9) **JUDICIAL REVIEW.**

A judicial review of any final determination may be had pursuant to the provisions of Section ZN 7.03(1).

## **ZN 7.02 VARIANCES BEFORE THE BOARD OF REVIEW.**

(1) **INTENT.**

It is the intent of this section of the Ordinance to recognize that under certain conditions and circumstances, it may be necessary to obtain a variance from the terms of this Ordinance so long as said variance will not be contrary to the public interest, and where, owing to special conditions, a literal enforcement of the provisions of the Ordinance will result in unnecessary hardship or practical difficulties and where the granting of such variance will uphold the spirit of this Ordinance and contribute to the justice of the particular case in question. Any variance granted under the terms of this Ordinance shall, however, relate only to area requirements and not to use. Furthermore, it is the intent of this section to establish a Board of Review for the purpose of reviewing applications for variances as well as reviewing orders and decisions made by the Department of Planning and Development.

(2) **BOARD OF REVIEW ESTABLISHED.**

Pursuant to the Wisconsin Statutes and Section 1.16 of the Code of Ordinances of the Village there is hereby established a Board of Review for the Village of Somers for the purpose of hearing appeals and applications and granting variances to the provisions of this Ordinance in harmony with the purpose and intent of this Ordinance.

(3) **JURISDICTION AND POWERS OF THE BOARD OF REVIEW.**

- (a) The Board of Review shall have the following powers:

- 1 To hear and decide appeals as may be authorized by Section ZN 7.01 of this Ordinance or where it is alleged that there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of §59.69, Wis. Stats., or this Ordinance.
  - 2 To hear and to authorize upon appeal in specific cases such variance from the terms of the ordinance as will not be contrary to the public interest, or, owing to special circumstances a literal enforcement of the provisions of the ordinance will result in unnecessary hardship and so that the spirit of the ordinance shall be observed and substantial justice done.
  - 3 To hear and decide applications for interpretations of the zoning regulations and the location of the boundaries of the zoning district, floodlands, and shorelands after the Plan Commission has made a review and recommendation. Floodland and shoreland boundaries shall be altered by the Board of Review only when the applicant presents evidence that clearly and conclusively establishes that the location as shown on the zoning map is incorrect. 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 Section ZN 8.03(4) Amendments.
  - 4 To hear and grant applications for substitution of more or equally restrictive non-conforming uses for existing non-conforming uses provided no structural alterations are to be made and the Department of Planning and Development has made a review and recommendation. Whenever the Board permits such a substitution, the use may not thereafter be changed without application.
  - 5 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 Department of Planning and Development has made a review and recommendation. The permit shall be temporary, revocable, subject to any conditions required by the Board of Adjustment, and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Ordinance shall be required.
- (b) No variance shall have the affect of permitting any use in a district that is prohibited in that district, nor shall a variance have the effect of a re-zoning.
- (c) The Board may reverse, affirm wholly or partly or modify the order, requirement, decision, or determination appealed from, and may make such order, requirement, decision or determination as ought to be made.
- (d) The Board may request assistance from other Village officers, departments, commissions, and boards.
- (e) The Chairman may administer oaths and compel the attendance of witnesses by subpoena.

(4) **APPEALS AND APPLICATIONS FOR VARIANCES.**

- (a) Appeals to the Board of Review may be taken by any persons aggrieved or by any officer, department, or Commission of the Village affected by a decision of the Department of Planning and Development. Such appeal shall be filed in triplicate in the Department of Planning and Development within thirty (30) days after the date of written notice of the decision or order. Applications may be made by the owner or lessee of the structure, land or water to be affected at any time and shall be filed in the Department of Planning and Development. Such appeals shall be commenced by filing with the Department of Planning and Development and with the Board of Review a notice of appeal specifying the grounds thereof. The Department of Planning and Development shall forthwith transfer to the Board all the papers constituting the record upon which the action appealed from was taken. In addition, such appeals and application shall include the following as deemed appropriate by the Board of Review:

- 1 Name, addresses and phone numbers of the applicant, owner of the site, architect, professional engineer, contractor, and authorized agent if applicable.
- 2 A description of the subject site by lot, block and recorded subdivisions or by metes and bounds; address of the subject site, tax parcel number, type of structure; existing or proposed use of the structure or site; the zoning district within which the subject site is located; classification of the subject site either being conforming or non-conforming in its use; and whether or not the property is located within a shoreland or floodplain area.
- 3 A plat of survey prepared by a land surveyor registered by the State of Wisconsin showing all of the information required under Section ZN 2.02(1)(h)3 for a zoning permit. In addition, the Department of Planning and Development may require that the plat of survey show the location, elevation and use of any abutting lands and the location and foundation elevations of structures within fifty (50) feet of the subject site; soil mapping unit lines; ordinary high water mark, historic high water marks and floodlands on or within fifty (50) feet of the subject premises, and existing and proposed landscaping.
- 4 For variances located within floodplain areas, the application shall include but not be limited to, a map plan which accurately locates or describes the proposal for a variance with respect to the floodway and flood plain, and shall provide all pertinent information such as fill dimensions and elevations, building floor elevations and floodproofing data. For all subdivision proposals and all other proposals, if the area affected exceeds five (5) acres or the estimated cost of the proposal exceeds One Hundred Twenty-five Thousand (\$125,000.00) Dollars, the applicant shall provide all computations which are required to show the effect of the proposal for a variance on flood heights, velocities and floodplain storage, which information may be transmitted to the Department of Natural Resources for review. In addition to the foregoing requirements required by Wis. Admin. Code §NR 116.20(2), the applicant shall be further required to submit any information hereinafter required by Chapter NR116 of the Wisconsin Administrative Code and amendments thereto. In addition, the Department of Planning and Development may require

additional information such as but not limited to that data set forth in Section ZN 5.03(4) of this Ordinance.

- 5 Additional information relative to those standards and guidelines which must be met prior to the issuance of the variance as set forth in Section ZN 7.02(13) of this Ordinance.
  - 6 The fee specified in Section ZN 2.02(8) of this Ordinance.
- (b) Any application for a variance under this Ordinance shall be accompanied by a sworn statement by the owner of the subject property or the applicant for a variance for said property that said property and its use will be operated in accordance with the provisions of this Ordinance.
- (c) For appeals concerning increases in regional flood elevation the Board shall:
- 1 Uphold the denial where the Board agrees with the data showing an increase in flood elevation. Increases may only be allowed after amending the flood profile and map and all appropriate legal arrangements are made with all adversely affected property owners as per the requirements of Section ZN 8.03(4) Amendments; and
  - 2 Grant the appeal where the Board agrees that the data properly demonstrates that the project does not cause an increase provided no other reasons for denial exist.

**(5) STAYS.**

An appeal shall stay all proceedings and furtherance of the action appealed from unless the Department of Planning and Development shall certify to the Board of Review after the notice and appeal shall have been filed that by reason of facts as stated in the certificate, a stay would cause imminent peril to life or property. In such case, notice shall be given to the appellant and proceedings shall not be stayed otherwise than by a restraining order, which may be granted by the Board of Review or by a Court of record, on application and notice to the Department of Planning and Development and for good cause shown.

**(6) NOTICE PROCEDURES.**

- (a) Upon receipt of a petition for a variance, the Department of Planning and Development shall place the matter on the agenda for a public hearing before the Village Board of Review provided, however, that the requirements of this Ordinance have been complied with.
- (b) Notice of the aforementioned public hearing shall be published as a Class 1 notice in a newspaper of general circulation within Village pursuant to Chapter 985, Wis. Stats., and the Wisconsin Open Meeting Law, §19.81 to §19.98, Wis. Stats. In addition, notice of said public hearing shall be mailed by certified mail, return receipt requested, to the last known address of all abutting property owners. Failure to receive notice shall not invalidate any action taken by the Board of Review. After publication and notice, the petitioner may request the Board of Review for a one (1) month postponement of the public hearing for good cause and no further publication or notice shall be required, provided, however, that notice of the adjourned hearing

date is given in the record at the time of the published hearing. With respect to properties located within the floodplain areas, a copy of the application for a variance shall be given to the Department of Natural Resources at least ten (10) days prior to the hearing date.

- (c) Upon receiving a petition for an appeal or variance, the Department of Planning and Development shall forward a copy of the petition to the board of any other town that may be immediately adjacent or opposite of such parcel and shall allow such board or planning commission forty-five (45) days to comment on said application. Within said period of forty-five (45) days, the Village board and/or planning commission shall forward their recommendation to the Village Board of Review regarding the appeal along with standards or conditions which are found by them to be necessary for the allowance of a variance. Said standards or conditions or recommendation to grant or deny the variance or appeal shall not be binding on the Board of Review or Village Board.

**(7) HEARING PROCEDURES.**

In hearing a petition requesting an appeal or allowance of a variance, the Board of Review shall call the petition at the public hearing. Upon the call of the petition, the petition shall be read by the Chairman of the board and at the conclusion thereof, the chairman shall hear and receive any evidence or sworn testimony presented by the petitioner or his authorized agent or attorney. At the conclusion of the petitioner's presentation, the Chairman shall first ask for any public comments from those in support of the petition and secondly from those in opposition to the petition. Any relevant and material evidence or sworn testimony presented by interested individuals either in favor of or in opposition to the petition shall be received by the Chairman provided however that said evidence or sworn testimony is properly identifiable for the record. Lastly, the Chairman may ask for a recommendation from a representative of the Department of Planning and Development.

**(8) CONTINUANCES.**

Upon receiving the recommendation of the Department of Planning and Development, the board may table the petition for a period of up to three (3) months from the date of public hearing so as to allow the petitioner an opportunity to provide any further information deemed pertinent by the board or so as to allow the board members an opportunity to view the site or similar situations already in existence if a comparison is warranted in accordance with the guidelines set forth in Section ZN 7.02(9) or consider the conditions for allowing the appeal or variance.

**(9) SITE VIEWS.**

En route to view a site as provided for in Section ZN 7.02(8) of this Ordinance, board members traveling together or visiting the site at the same time shall refrain from discussing board business. Furthermore, testimony shall not be received during such view nor shall any argument be heard. The Board may, however, gather information and ask questions provided that information, data, and questions and answers are recited into the record if that information will not be entered by testimony or exhibits.

**(10) FINDINGS AND CONCLUSIONS.**

Upon having received all evidence and hearing all sworn testimony relating to the petition, the Board of Review shall review the site plan, existing and proposed structures, architectural plans, neighboring land and water uses, parking areas, driveway locations, highway access, traffic generation and circulation,

drainage, sewage and water systems, the proposed operation, the effects of the proposed use, structure, operation and improvement upon flood damage protection, water quality, shoreland cover, natural beauty and wildlife habitat, and any other pertinent requirements deemed necessary by the board when considering the standards set forth in Section ZN 7.02(11) of this Ordinance. Upon completion of said review, the board chairman shall entertain a motion that the board either grant or deny the appeal or application for a variance based upon specific findings and conclusions which shall be part of the Board's written decision and minutes.

(11) **STANDARDS AND GUIDELINES.**

(a) In determining whether a variance is to be granted, the following standards and guidelines must be met in view of the evidence presented and in making its decision, these standards and guidelines shall be addressed by the Board of Review:

- 1 The existence of special conditions or exceptional circumstances on the land in questions.
- 2 The experiencing of unnecessary hardships or practical difficulties on the land in question either presently or in the future.
- 3 That these hardships or difficulties are the result of the aforementioned special conditions existing on the land and are not self-inflicted.
- 4 That the existence of these special conditions will restrict the use of the land if the Ordinance is applied literally so as to render the land useless.
- 5 That the limitation on the use of the land does not apply generally to other properties in the district.
- 6 That limiting the use of the property does not afford compensating gains to the public health, safety and welfare.
- 7 That the variance(s) requested are the minimum variance(s) needed to alleviate difficulties or hardships.
- 8 That the use of the parcel in question presently does conform to the ordinance.
- 9 That granting the variance applied for will not affect the public health, safety, morals and welfare of the community and other properties in the area.
- 10 That with respect to those areas located within the floodland districts, a variance would not permit a change in the boundaries of the FPO Floodplain Overlay District; would not permit a lower degree of flood protection in the floodland districts than the flood protection elevation; would not allow any residential, commercial, institutional, or park basement or crawlway to be located below the one hundred (100) year recurrence

interval flood elevation; would not allow a change or alteration of an historic structure, including its use, which would result in the structure losing its designation as an historic structure; further, that the variance for the proposed action would not require an amendment to the floodplain zoning ordinance; and furthermore, that the variance would not have the effect of granting or increasing a use of property which is prohibited in the floodland districts or any action contrary to the provisions of Chapter NR 116 of the Wisconsin Administrative Code.

- 11 In addition to the criteria in subparagraph 10 above to qualify for a variance under FEMA regulations, the following criteria must be met:
  - a The variance shall not cause any increase in the regional flood elevation;
  - b Variances can only be granted for lots that are less than one-half ( $\frac{1}{2}$ ) acre and are contiguous to existing structures constructed below the RFE; and
  - c 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 the ordinance.
- (b) Variances may be granted for example for reasons of topography, environmental protection or where permitted by state statute but in no event may a variance be granted where the primary reason for obtaining a variance is to obtain a more profitable use of the property, personal inconvenience, construction errors, economic reasons, self-created hardships, or where the property is presently a non-conforming use. Furthermore, variances may not be granted for the purpose of altering the sanitary requirements of this Ordinance except for existing structures.
- (c) The Board of Review in considering the propriety of granting a variance shall not consider the number of persons for or against the granting of a variance but shall base their decision solely upon the equities of the situation involved.
- (d) Variances may be granted in the form of an area or distance variance, however, use variances shall be specifically prohibited under this Ordinance.
- (e) When a floodplain variance is granted the Board shall notify the applicant in writing that it may increase risks to life and property and flood insurance premiums could increase up to Twenty-five (\$25.00) Dollars per One Hundred (\$100.00) Dollars of coverage. A copy shall be maintained with the variance record.
- (f) A variance within any floodland district shall not:
  - 1 Damage the rights or property values of other persons in the area;
  - 2 Allow actions without the amendments to this Ordinance or map(s) required in 12-40-4 Amendments; and

- 3 Allow any alteration of an historic structure, including its use, which would preclude its continued designation as an historic structure.

**(12) CONDITIONS.**

In order to insure that any variance so granted by the Board of Review is consistent with the spirit of the Ordinance and recognizing that there could be fact situations where the spirit of this Ordinance could be observed only if conditions were imposed upon the granting of the variance, the Board of Review is specifically empowered to grant a variance upon conditions such as, but not limited to, landscaping, type of construction, hours of operation, traffic patterns, parking requirements, yard sizes, time periods, deed restrictions, bonds, etc. and further provide that in the absence of said conditions being met, said variance shall be null and void.

**(13) DECISIONS.**

- (a) The concurring vote of the majority of the Board shall be necessary to reverse any order, requirement, decision or determination of the Department of Planning and Development, or to decide in favor of the applicant on any matter upon which it is required to pass under this Ordinance, or to effect any variation in this Ordinance.
- (b) The Board of Review shall decide all appeals and applications in compliance with the Wisconsin Open Meeting Law and within thirty (30) days after final hearing and shall transmit a signed copy of the Board's decision and order to the appellant or applicant and the Department of Planning and Development along with the Board's Findings and Conclusions and a statement as to which members of the board viewed the property in question and the date of such viewing.
- (c) Variances granted by the Board that require issuance of a zoning permit shall expire within one (1) year of approval unless the zoning permit is issued. Zoning permits issued in accordance with Board of Review approval may not be renewed without Board of Review approval. Variances are approved for specific sizes and dimensions. No additions shall be approved which affect the area for which the variance was granted unless approved by the Board of Review.
- (d) Applicants receiving variances in the FPO Floodplain Overlay District shall be notified, in writing, by the Board of Review that increased flood insurance premiums and risk to life and property may result from the granting of the variance. The Board shall keep a record of the notifications in its files.

**(14) ORDER ON APPEAL.**

In exercising the above mentioned powers, the Board of Review may, in conformity with the provisions of this section, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all powers of the officer from whom the appeal was taken.

**(15) CONFLICT OF INTEREST.**

Any member of the Board of Review having a conflict of interest in any matter coming before the board shall refrain from any voting or discussion either prior to, at, or after the matter has been heard by the Board.



**(16) NOTICE TO DNR AND ARMY CORP OF ENGINEERS.**

The Board of Review shall transmit a copy of each application for a variance to floodland and/or shoreland regulations, and a copy of each appeal to floodland and/or shoreland regulations to the Wisconsin Department of Natural Resources (DNR) and to the Army Corp of Engineers for review and comment at least ten (10) days prior to any public hearing. Final action on the application or appeal shall not be taken for thirty (30) days or until such time as the DNR and Army Corp of Engineers has made their recommendations, whichever comes first. A copy of all decisions relating to variances to floodland and/or shoreland regulations, and a copy of all decisions to floodland and/or shoreland appeals shall be transmitted to the DNR and the Army Corp of Engineers within ten (10) days of the effective date of such decision.

**(17) MOTION TO RECONSIDER AND RE-APPEAL.**

- (a) Where an error in judgment or procedure resulted in granting an improper variance or in denying an appeal, a motion to reconsider made by a board member or upon motion of any interested party, may be considered and the prior action of the Board rescinded if vested rights are not violated.
- (b) A petition for a variance having been denied or a decision or order of the Department of Planning and Development having been affirmed, a petition seeking a similar variance or relief shall not be entertained by the Board of Review until the expiration of a minimum of one (1) year.

**(18) APPEAL OF BOARD RULING OR ORDER.**

Any decision of the Village Board of Review related to the granting or denial of an appeal or allowance or denial of a variance may be appealed as provided for in Section ZN 7.03 of this Ordinance.

**(19) RECORDING OF RULING OR ORDER.**

The Department of Planning and Development shall keep a record and/or map of all such variances which shall be open to the public.

## **ZN 7.03 JUDICIAL REVIEW.**

**(1) JUDICIAL REVIEW OF FINAL DETERMINATION OF ADMINISTRATIVE APPEAL.**

- (a) Any party to a proceeding resulting in a final determination pursuant to Section ZN 7.01(8) of this Ordinance may seek review thereof by writ of certiorari within thirty (30) days of receipt of the final determination. The court may affirm or reverse the final determination, or remand to the decision maker for further proceedings consistent with the court's decision.
- (b) If review is sought of a final determination, the record of the proceedings shall be transcribed at the expense of the person seeking review. A transcript shall be supplied to anyone requesting the same at the requester's expense. If the person seeking review establishes impecuniousness to the satisfaction of the reviewing court, the court may order the proceedings transcribed at

the expense of the municipality and the person seeking review shall be furnished a free copy of the transcript. By stipulation, the court may order a synopsis of the proceedings in lieu of a transcript. The court may otherwise limit the requirement for a transcript.

(2) **REMEDIES.**

Any person aggrieved by the operation of this Ordinance may seek judicial relief in the form of declaratory judgments, and petitions for a writ of mandamus along with any and all other remedies available to said individual either at law or in equity. Compliance with this Ordinance may also be enforced by injunctive order at the suit of the Village or the owner or owners of real estate affected by such regulation. Forfeitures and penalties shall be in accordance with Section ZN 6.04 of this Ordinance.

(3) **JURY TRIAL.**

A jury trial may be requested by either party in any action involving an issue of fact relating to the operation of this Ordinance.

## **CHAPTER 8**

### **AMENDMENTS AND CHANGES**

ZN 8.01	General Boundary and Text Amendments
ZN 8.02	Shoreland Amendments
ZN 8.03	Floodplain Amendments



## **ZN 8.01 GENERAL BOUNDARY AND TEXT AMENDMENTS.**

### **(1) INTENT.**

While it is the intent of this Ordinance to provide stability and regularity in zoning and land use in the Village of Somers, it is recognized that zoning is by no means static. It is the intent of this section to recognize that changed or changing conditions call for changed plans, and persons who own property in a particular zone or use district cannot enjoy an eternally vested right to that classification if the public interest demands otherwise.

### **(2) AUTHORITY AND LIMITATIONS.**

Whenever the public necessity, convenience and general welfare require, the Village Board of Trustees may, by ordinance, amend any part of the Ordinance. Such amendments may include reclassification or rezoning of property, changes in district boundaries, or changes in the text of this Ordinance. Such amendments shall be enacted in accordance with the provisions of the Wisconsin Statutes and this Ordinance. The determination of when the public interest requires a change in the zoning ordinance shall remain within the discretion of the Village Board of Trustees. Amendments may also be made upon a showing of a mistake or error on the part of the Village Department of Planning and Development.

### **(3) INITIATION.**

A petition for amendment of this Ordinance may be made by any property owner or his agent or any individual having a vested interest in an option or offer to purchase the land in question in the area to be affected by the amendment, by any member of the Village Board or by the Village Plan Commission.

Prior to application, the petitioner shall set up a pre-application conference with Planning and Development staff. This conference is intended to inform the petitioner of the purpose and objectives of these regulations. In so doing, the petitioner and the planning staff may reach mutual conclusions regarding the possible effect of the project on abutting properties and the petitioner will gain a better understanding of subsequent required procedures.

### **(4) PETITION.**

Petitions for any change or amendment to the district boundaries or amendments to the text of this Ordinance shall be filed with the Village Clerk/Treasurer, who shall immediately refer it to the Village Plan Commission and Department of Planning and Development for its consideration, report and recommendation. Said petition shall describe the premises to be rezoned and the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

- (a) Petitioner's name, address, phone number and interest in property. (Owner, broker, etc.)
- (b) Existing zoning district
- (c) Proposed zoning district
- (d) Proposed use (a statement of the type, extent, area, etc. of any development project)

- (e) Compatibility with Village plans (a statement of conditions warranting a change in zoning)
- (f) Compatibility with adjacent lands (a statement of land uses and impact of zoning change)
- (g) Legal description of property to be rezoned
- (h) Plot plan or survey plat of property to be rezoned (showing location, dimensions, zoning of adjacent properties, existing uses and buildings of adjacent properties--drawn to scale)
- (i) The exact language of any proposed change in the text of this Ordinance.
- (j) A map plan, when necessary, which accurately locates or describes the proposal with respect to the floodways and floodplains and which provides all pertinent information such as the fill dimensions and elevations, building floor elevations and floodproofing data.
- (k) All computations which are required to show the effect of the proposal on flood heights, velocities and floodplain storage for all subdivision proposals and all other proposals if the area affected exceeds five (5) acres or the estimated cost of the proposal exceeds Seventy-five Thousand (\$75,000.00) Dollars, which information shall be transmitted to the Department of Natural Resources for review.
- (l) Additional information as may be requested by the Village Department of Planning and Development
- (m) Any information required by Section ZN 2.02(1) of this Ordinance.
- (n) The fee specified in Section ZN 2.02(8) of this Ordinance.

All petitions referred under this paragraph shall be brought to the attention of the Village Board at its next succeeding meeting. At such meeting of the Village Board, the petition shall be formally referred directly to the Village Plan Commission for its consideration, report and recommendations.

**(5) PUBLIC HEARING.**

Pursuant to Wisconsin Statute, upon receipt of such petition by the Village Plan Commission, said Commission shall call a public hearing thereon. Notice of the time and place of such hearing shall be given by publication in the Village of a Class 1 Notice, under Chapter 985 of the Wisconsin Statutes. A copy of such notice shall be mailed by registered mail to the persons affected by the proposed amendment at least ten (10) days prior to the date of such hearing. Additional notices shall be given as required by Section ZN 8.02 (Shoreland Amendments), Section ZN 8.03 (Floodplain Amendments) and to those persons certified under Section ZN 8.01(4)(i) of this Ordinance.

**(6) PLAN COMMISSION RECOMMENDATION.**

As soon as possible after such public hearing, the Commission shall act on such petition either approving, modifying and approving, or disapproving of the same. If its action was favorable to granting the requested change or any modification thereof, it shall cause an ordinance to be drafted effectuating

it determination and shall submit such proposed ordinance directly to the Village Board with its recommendations. If the Commission after its public hearing, shall recommend denial of the petition, it shall report its recommendation directly to the Village Board with its reason for such action.

**(7) VILLAGE BOARD ACTION.**

Upon receipt of such Plan Commission report, the Village Board may adopt the ordinance as drafted by the Plan Commission or with amendments, or it may deny the petition for amendment or it may refuse to deny the petition as recommended by the committee in which case it shall re-refer the petition to the Plan Commission with directions to draft an ordinance to effectuate the petition and report the same back to the Village Board, which may then adopt or reject such ordinance.

## **ZN 8.02 SHORELAND AMENDMENTS.**

**(1) PROCEDURE.**

Pursuant to §59.691, Wis. Stats., amendments affecting shoreland areas shall be governed by the procedures heretofore set forth with the exception that said amendments shall not require approval or be subject to disapproval by the Village Board.

**(2) AMENDMENTS TO LANDS IN THE SHORELAND JURISDICTION OF THIS ORDINANCE.**

- (a) Notice to DNR. The Village shall transmit a notice of any change (text or map) to the shoreland provisions of this Ordinance to the Wisconsin Department of Natural Resources (DNR). Notice requirements shall be as follows:
- 1 A copy of every petition for a text or map change mailed within five (5) days of filing with the Village Clerk/Treasurer.
  - 2 At least ten (10) days prior notice of any public hearing on any Shoreland amendment.
  - 3 Notice of a Village Plan Commission recommendation no later than ten (10) days following the recommendation.
  - 4 Notice of a Village Board decision no later than ten (10) days following the decision.
- (b) Review Standards for C-1 Changes. No wetland in a Shoreland C-1 District shall be rezoned if the rezoning may result in a significant adverse impact on storm or floodwater storage capacity; maintenance of dry season streamflow, the discharge of groundwater from the wetland to another area, or the flow of groundwater through a wetland; filtering or storage of sediments, otherwise drain into navigable waters; shoreland protection against soil erosion; fish spawning, breeding, nursery or feeding grounds; wildlife habitat; or areas of special recreational, scenic or scientific interest, including scarce wetland types. Wetlands both within the boundary of designated areas of special natural resource interest and those wetlands which are in proximity to or have a direct hydrologic connection to such designated areas as defined in Wis. Admin. Code §NR 103.

- (c) DNR Objections. If the DNR has notified the Village Plan Commission that an amendment to the shoreland portion of the C-1 District may have a significant adverse impact upon any of the criteria listed in paragraph (b) above, then that amendment, if approved by the Village Board, shall contain the following provision: "This amendment shall not take effect until more than thirty (30) days have elapsed since written notice of the Village Board's approval of this amendment was mailed to the Department of Natural Resources. During that thirty (30) day period, the Department of Natural Resources may notify the Village Board that it will adopt a superseding shoreland ordinance for the Village. If the Department does so notify the Village Board, the effect of this amendment shall be stayed until the adoption procedure is completed or otherwise terminated."

## **ZN 8.03 FLOODPLAIN AMENDMENTS.**

### **(1) AMENDING FLOODPLAIN LIMITS.**

Obstructions or increases may only be permitted if amendments are made to this Ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section ZN 8.03(2).

- (a) In AE Zones with a mapped floodway, no obstructions or increases shall be permitted unless the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with Section ZN 8.03(2). Any such alterations must be reviewed and approved by FEMA and the DNR.
- (b) In A Zones increases equal to or greater than one (1) foot may only be permitted if the applicant receives a Conditional Letter of Map Revision from FEMA and amendments are made to this Ordinance, the official floodplain maps, floodway lines, and water surface profiles, in accordance with Section ZN 8.03(2).

### **(2) ACTIONS REQUIRING FLOODPLAIN AMENDMENT.**

The Department of Planning and Development shall change or supplement the floodplain zoning district boundaries and this Ordinance in the manner outlined in Section ZN 8.03(3) below. Actions which require an amendment to the ordinance and/ or submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

- (a) Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
- (b) Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
- (c) Any changes to any other officially adopted floodplain maps listed in Section ZN 1.02(12)(c);
- (d) Any floodplain fill 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;



- (e) Correction of discrepancies between the water surface profiles and floodplain maps;
- (f) Any upgrade to a floodplain zoning ordinance text required by Wis. Admin. Code §NR 116.05, or otherwise required by law, or for changes by the municipality; and
- (g) All channel relocations and changes to the maps to alter floodway lines or to remove an area from the floodway or the floodfringe that is based on a base flood elevation from a FIRM requires prior approval by FEMA.

(3) **PROCEDURES TO AMEND FLOODPLAIN LIMITS.**

Ordinance amendments may be made upon petition of any party according to the provisions of §59.69, Wis. Stats. The petitions shall include all data required by Section ZN 2.02(1)(h). The Zoning Permit shall not be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

- (a) No amendments shall become effective until reviewed and approved by the DNR. Maps and associated engineering data shall be submitted to the Department for review which meet the following conditions:
  - 1 Consistency between the revised hydraulic models, the revised floodplain and floodway delineations, the revised flood profiles, topographic work map, annotated FIRMs and/or Flood Boundary Floodway Maps (FBFMs), construction plans, bridge plans.
  - 2 Certified topographic map of suitable scale, contour interval, and a planimetric map showing the applicable items. If a digital version of the map is available, it may be submitted in order that the FIRM may be more easily revised.
  - 3 Annotated FIRM panel showing the revised one (1%) percent and two tenths of one percent (0.2%) annual chance floodplains and floodway boundaries.
  - 4 If an annotated FIRM and/or FBFM and digital mapping data (GIS or CADD) are used then all supporting documentation or metadata must be included with the data submission along with the Universal Transverse Mercator (UTM) projection and State Plane Coordinate System in accordance with FEMA mapping specifications.
  - 5 The revised floodplain boundaries shall tie into the effective floodplain boundaries.
  - 6 All cross sections from the effective model shall be labeled in accordance with the effective map and a cross section lookup table shall be included to relate to the model input numbering scheme.
  - 7 Both the current and proposed floodways shall be shown on the map.
  - 8 The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

- (b) All persons petitioning for a map amendment that obstructs flow causing any increase in the regional flood height, 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 governing body
- (c) All proposed amendments shall be referred to the Department of Planning and Development for a public hearing and recommendation to the Village Plan Commission and the Village Board of Trustees which shall approve or disapprove the proposed amendment. The amendment and notice of public hearing shall be submitted to the DNR's Regional office for review ten (10) days prior to the hearing.

(4) **FLOODPLAIN BOUNDARY CHANGES LIMITED.**

The Village Board shall not permit changes to the floodplain that are inconsistent with the purpose and intent of this Ordinance; or in conflict with the applicable rules and regulations of the Wisconsin Department of Natural Resources, (DNR) and the Federal Emergency Management Agency, (FEMA). In addition:

- (a) Changes in the FPO Floodplain Overlay District boundaries shall not be permitted where the change will increase the flood stage elevation by 0.00 foot or more unless the petitioner has made appropriate legal arrangements with all affected units of government and all property owners affected by the stage increase, in accordance with Section ZN 8.03(1) and (2). Petitions for FPO Floodplain Overlay District changes shall show the effects of the change within the associated flood fringe, and shall provide adjusted water surface profiles and adjusted floodplain limits to reflect the increased flood elevations. It shall be the policy of the Village Board that any area removed from the FPO Floodplain Overlay District shall create an equivalent area and volume of floodplain in the vicinity of the removal.
- (b) Removal of land from the floodplain shall not be permitted unless the land has been filled to an elevation at least two (2) feet above the elevation of the one hundred (100) year recurrence interval flood and provided that such land is contiguous to lands lying outside of the floodlands, in accordance with Section ZN 8.04(3).
- (c) No river or stream or watercourse shall be altered or relocated until a floodplain zoning change has been applied for and granted in accordance with the requirements of this section, and until the town in which the change is located and all adjacent communities have been requested to review and comment on the proposed alteration or relocation. The flood carrying capacity of within the altered or relocated portion of the watercourse shall be maintained
- (d) A copy of all notices for amending the floodplain provisions of this Ordinance or the floodplain maps shall be transmitted to the Wisconsin Department of Natural Resources (DNR) and the Federal Emergency Management Agency (FEMA). No amendment to the floodplain boundaries or regulations shall be effective until approved by the DNR. The amendment procedure shall comply with the provisions of §59.59, Wis. Stats.

## **APPENDIX "A"—DEFINITIONS**

### **A ZONES**

Areas of potential flooding shown on the Village's "Flood Insurance Rate Map" which would be inundated by the regional flood as defined herein. These numbers may be numbered as A0, A1 to A99, or be 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.

### **ABANDONMENT**

With respect to quarrying and non-metallic mining operations, "abandonment" means the cessation of quarrying or other non-metallic mining operations for more than two hundred forty (240) consecutive days, except when the cessation is specifically provided for in the operator's permit, or in an operations plan approved and incorporated by reference in the permit, or by written order issued by the Village Plan Commission upon good cause shown. Abandonment does not include any period of cessation of operations due to labor strikes, natural disasters or other similar extraordinary causes beyond the control of the operator (but this exception does not include business reversals, competitive forces, market conditions, shortage of cash, or other similar reasons).

### **ABUTTING PROPERTY OWNERS**

Property owners having a common boundary or property owners on either side of a public thoroughfare.

### **ACCESS**

A way of approaching or entering a property. Access also includes ingress, the right to enter, and egress, the right to leave.

### **ACCESS AND VIEWING CORRIDOR**

A strip of vegetated land that allows safe pedestrian access to the shore through the vegetative buffer zone.

### **ACCESSORY BUILDING OR USE**

A building or use which:

- (1) Is or will be subordinate to and serves a principal building or principal use;
- (2) Is or will be subordinate in area, extent, or purpose to the principal building or principal use served;
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal building or principal use; and
- (4) Is or will be located on the same zoning lot as the principal building or principal use.
- (5) Is detached from the principal structure.

**ACCESSORY LIVING UNIT**

A separate living area established within the clearly subordinate to a single-family dwelling being part of the same structure provided it is occupied by a resident related through blood, marriage or adoption to the resident occupant of the single-family dwelling.

**ADDITION**

Any construction which increases the size of a building, such as a porch, attached garage or carport, or a new room or wing. An addition is a form of alteration.

**ADJACENT; ADJOINING** Nearby, but not necessarily touching.

**ADJACENT GRADE**

The natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**AIRPORT, PUBLIC OR PRIVATE**

Any airport which complies with the definition contained in §114.013(3), Wis. Stats., or any airport which serves or offers to serve common carriers engaged in air transport.

**AIRSTRIP OR LANDING FIELD**

Any land intended for the landing or take-off of aircraft.

**ALLEY**

A public highway which is a narrow way, less in size than a street, and which is not designed for general travel; which is used primarily as a means of access to the rear of residences and business establishments and which, generally, affords only a secondary means of access to the property abutting along its length.

**ALTERATIONS**

A physical change in a building or an addition to it. As applied to a building or structure, means a change or rearrangement, in the structural parts or in the exit facilities or an enlargement, whether by extending on a side, by increasing in height, or the moving from one (1) location or position to another.

**AMENITY**

Aesthetic or other characteristics of a development that increase its desirability to a community or its marketability to the public. It may include such things as a unified building design, recreational facilities, such as swimming pools or tennis courts, security systems, views, landscaping or tree preservation, or attractive site design.

**ANIMAL HOSPITAL**

A building or premises for the medical or surgical treatment of domestic animals or pets, including dog, cat, and veterinary hospitals.

**ANIMAL UNIT**

One (1) animal unit shall be defined as being the equivalent of the following: one (1) one thousand (1,000) pound steer; one (1) dairy cow; four (4) swine; ten (10) sheep; one hundred (100) laying hens; one hundred (100) broilers; one (1) horse; or one hundred (100) turkeys.

**APARTMENT**

A room or suite of rooms in a multiple dwelling intended to be designed for use as a residence by a single-family.

**APARTMENT, EFFICIENCY**

A dwelling unit of not more than one (1) room in addition to kitchen and bath and intended primarily as a residence for a single person.

**APARTMENT HOTEL**

A building or portion thereof used for or containing both individual guest rooms and dwelling units designed for more or less temporary occupancy.

**APARTMENT HOUSE**

A building or that portion thereof containing more than four dwelling units or efficiency apartments.

**ARCHITECTURAL STYLE**

The characteristic form and detail of building design based on a particular historic period.

**AREA**

Synonymous with the word "tract", which is "a piece of land capable of being described with such definiteness that its location may be established and boundaries definitely ascertained."

**ASSESSED VALUE**

The full market value placed upon the structure or lot by the Village Assessor as of the date that the non-conformity came into being, that is, the effective date of this Ordinance or amendment thereto. Such valuation by the Village assessor shall be prima facie evidence of the assessed value of the structure or lot.

**AUTOMOBILE WRECKING YARD**

Any place where two (2) or more motor vehicles not in running condition, or parts thereof, are stored in the open and are not being restored to operation, or any land, building or structure used for wrecking or storing of such motor vehicles or farm machinery, or parts thereof, stored in the open and not being restored to operating conditions; and including the commercial salvaging of any other goods, articles or merchandise.

**AWNING**

A movable hood or cover which projects from the wall of a building, which can be retracted, folded or collapsed against the face of a supporting structure.

**BACK LOT DEVELOPMENT**

Back lot development, also known as "lot pyramiding", "keyhole development", and "development funneling" is the practice whereby a lot, outlot, or common open space is used for waterfront access by a large number of parcels built away from the water body. In many cases, a common road or drive leads to a pier or beach. This practice is viewed by many as crowding more development onto a body of water than would otherwise occur with individual waterfront lots, thus altering the appearance and quality of development on the body of water.

**BALCONY**

A platform extending from a wall at a non-ground floor level without ground supports.

**BASE FLOOD**

Means the flood having a one (1%) percent chance of being equaled or exceeded in any given year, as published by FEMA as part of a FIS and depicted on a FIRM.

**BASE FLOOD ELEVATION (BFE)**

The computed elevation to which floodwater is anticipated to rise during the base flood. Base Flood Elevations (BFEs) are shown on Flood Insurance Rate Maps (FIRMs) and on the flood profiles

**BASEMENT**

An area below the first floor, having part but no more than one-half ( $\frac{1}{2}$ ) of its height above grade.

**BAY/BOX/BOW WINDOW**

A window structure projecting from the wall of a building which does not add floor space to the building and which does not have a foundation.

**BED AND BREAKFAST ESTABLISHMENT**

Any place of lodging that provides four (4) or fewer rooms for rent for more than ten (10) nights in a twelve (12) month period, is the owner's personal residence, is occupied by the owner at the time of rental, and in which the only meal served to guests is breakfast.

**BENCHMARK**

Identification symbols from which differences of elevation are measured.

**BILLBOARD**

A structure used for an outdoor display for the purpose of making anything known.

**BOARDINGHOUSE**

A building other than a hotel, where lodging and meals for five (5) or more persons are served for compensation. A boardinghouse may also include the dwelling unit occupied by the owner or operator.

**BOATHOUSE**

Any permanent accessory building used for the storage of watercraft and water-associated materials and includes all structures which are totally enclosed, have roofs or walls or any combination of these structural parts. A boathouse is a non-habitable structure and shall be designed and used exclusively for

marine equipment, no fireplaces, patio doors, plumbing, heating, air conditioning, cooking facilities or other features inconsistent with the use of the structure exclusively as a boathouse shall be allowed.

**BUILDING**

Any structure having a roof supported by columns or walls for the housing or enclosure of persons, animals or chattels. When any portion thereof is completely separated from every other portion thereof by a division wall without openings then each such portion shall be deemed to be a separate building.

**BUILDING AREA**

See "Floor Area".

**BUILDING ENVELOPE**

The three-dimensional space within a structural is built.

**BUILDING, FRONT OF**

That side of a building which faces the principal road, street, highway or way serving the same.

**BUILDING LINE**

A line between which and any street line, no building or parts of buildings may be erected, altered, or maintained except as otherwise provided for in this Ordinance equivalent to a setback line.

**BUILDING SETBACK LINE**

The line nearest the street and across a lot establishing the minimum open space to be provided between buildings and specified structures and street lines.

**BUILDING, Non-CONFORMING**

A legally existing building which fails to comply with the regulations (for height, number of stories, size, area, yards, and location) set forth in this Ordinance applicable to the district in which this building is located.

**BUILDING, PRINCIPAL**

A building in which is conducted the principal use of the lot on which it is situated.

**BULKHEAD LINE**

A boundary line established along any section of the shore of any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to §30.11 of the Wisconsin Statutes. Filling and development is only permitted between the bulkhead line and the original ordinary high water mark.

**BUSINESS; BUSINESS USE**

Necessarily imply employment of one (1) or more persons for the purpose of earning a livelihood, activities of persons to improve their economic conditions and desires, and generally relate to commercial and industrial engagements.

**CAMP GROUND**

Any area or tract of land used to accommodate two (2) or more camping parties, including cabins, tents, house trailers, or other camping outfits.

**CANOPY**

A structure of canvas, other fabric, plastic, metal or wood or other material, which is permanently attached to any exterior building wall in any manner, intended to shield any wall, window, door, sidewalk or roadway from sun, rain or any other element, and which is not retractable such as an awning.

**CARPORT**

A structure having a roof, with or without supporting walls, posts or columns, used, designed or intended to be used for the protection or shelter of private motor vehicles. For the purpose of this Ordinance, a carport shall be considered to be the equivalent of a garage.

**CARWASH**

Any facility used for the washing of vehicles requiring the installation of special equipment or machinery and plumbing affixed to or affixed separate of a structure.

**CEMETERY**

Land used for the burial of the dead, and dedicated for cemetery purposes, including columbaria, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundary of such cemetery.

**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 is in compliance with all of the provisions of this Ordinance.

**CHANNEL**

A natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

**CHANNELING**

The act or action which results in an interconnection of two (2) bodies of water, usually navigable by surface craft.

**CHILD CARE CENTER**

Any establishment which provides shelter, care, activity and supervision (with or without academic instruction) for five (5) or more unrelated children or children who are not the legal wards or foster children of the attendant adult between the hours of 7:00 A.M. and 7:00 P.M.

**CHURCH**

A building, together with its accessory buildings and uses, where persons regularly assemble for religious worship, and which building together with its accessory buildings and uses, is maintained and controlled by a religious body organized to sustain public worship.



**CLINIC**

A place for the medical or similar examination and treatment of persons as outpatients.

**CLOSED CUP FLASH POINT**

The lowest temperature at which a combustible liquid under prescribed conditions will give off a flammable vapor which will propagate a flame. The Tag closed cup tester shall be authoritative for liquids having a flash point below one hundred seventy-five (175°) degrees Fahrenheit. The Pensky-Martens tester shall be authoritative for liquids having flash points between one hundred seventy-five (175°) degrees Fahrenheit and three hundred fifty (350°) degrees Fahrenheit.

**CLUB OR LODGE**

Buildings and facilities, owned or operated by a corporation, association, person or persons, for a social, educational, or recreational purpose, to which membership is required for participation and not operated primarily for profit nor to render a service which is customarily carried on as a business.

**CLUSTER DEVELOPMENT**

A form of residential development that concentrates buildings or lots in one (1) or more parts of the site to allow the remaining lands to be used for common open space, recreation, and preservation of environmentally sensitive features. The concentration of lots is facilitated by a reduction in lot size. A cluster development will consist of one (1) or more cluster groups surrounded by common open space.

**CLUSTER GROUP**

A group of single-family detached dwellings within a cluster development, surrounded by common open space. The outer boundary of a cluster group is defined by the lot lines or the lots within the group, including the street fronting on and providing access to those lots.

**COLONIAL ARCHITECTURAL STYLE**

Style of residence of which one of the features is to have an eave less than twelve (12) inches. Colonial includes Cape Cod Colonial, Colonial Revival, Georgian Colonial, Neo-Colonial, New England Colonial, Salt Box Colonial and Southern Colonial.

**COMMERCIAL WIRELESS TELECOMMUNICATION SERVICES**

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

**COMMON ELEMENT**

The common facilities in a condominium.

**COMMON FACILITIES**

All the real property and improvements set aside for the common use of and enjoyment of the residents of a cluster development, including, but not limited to, buildings, open space, private streets, parking areas, walkways, trails, recreation areas, drainage easements, and any utilities that service more than one (1) unit, such as sewerage and water supply facilities, and which are designated in the master deed as common elements.

**COMMON OPEN SPACE**

Undeveloped land within a cluster development that has been designated, dedicated, reserved, or restricted in perpetuity from further development. Common open space shall not be part of individual residential lots, and shall be substantially free of structures, but may contain such recreational facilities for residents as are shown on the approved development plan.

**COMMUNICATION TOWER**

Any structure, whether free-standing or attached to an existing building or structure, that is designed and constructed primarily for the purpose of supporting one (1) or more antennas, including self-supporting lattice towers, guy towers, or monopole towers. The term includes radio and television transmission towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures, and the like.

**COMMUNITY ASSOCIATION**

A condominium or homeowners association

**COMMUNITY CENTER**

A building, together with lawful accessory buildings and uses, used for recreational and cultural activities, etc., and not operated for profit.

**COMMUNITY LIVING ARRANGEMENTS**

Any facility falling within the definition of §46.03(22), Wis. Stats.

**CONDITIONAL USE**

Uses of a special nature as to make impractical their predetermination as a principal use in a district.

**CONDOMINIUM**

Property subject to a condominium declaration established in accordance with the requirements of the "Condominium Ownership Act," Chapter 703 of the Wisconsin Statutes. Condominium is a legal form of ownership of real estate and not a specific building type or style.

**CONDOMINIUM ASSOCIATION**

A community association, incorporated or unincorporated, whose membership consists of owners of dwelling units in a condominium, which combines individual unit ownership with shared use and ownership of common property or facilities. The association is responsible for maintaining the common facilities and delivering services, but does not own the common facilities.

**CONSERVATION STANDARDS**

Guidelines and specifications for soil and water conservation practices and management enumerated in the technical guide prepared by the USDA Natural Resources Conservation Service for Kenosha Village, adopted by the Village Soil and Water Conservation District Supervisors, and containing suitable alternatives for the use and treatment of land based upon its capabilities from which the landowner selects that alternative which best meets his needs in developing his soil and water conservation plan.

**CONVERSION**

Any modification or change to an existing dwelling which is intended to or actually does increase the number of dwelling or room units.

**COURT**

An open space which may or may not have street access, and around which is arranged a single building or group of related buildings.

**COURT, INNER**

That portion of a lot unoccupied by any part of a building, surrounded on all sides by walls, or by walls and a lot line.

**COURT, OUTER**

That portion of a lot unoccupied by any part of a building, opening onto a street, alley, or yard.

**CRAWLWAYS OR "CRAWL SPACE"**

An enclosed area below the first usable floor of a building, generally less than five (5) feet in height, used for access to plumbing and electrical utilities.

**DAY CARE CENTER**

See "Child Care Center".

**DAY NURSERY**

See "Child Care Center".

**DECIBEL**

A unit of measurement of the intensity (loudness) of sound. Sound level meters which are employed to measure the intensity of sound are calibrated in "decibels".

**DECK**

An uncovered and unenclosed exterior structure with no roof or walls and primarily constructed of wood or composite material, with or without footings, which allows the infiltration of precipitation through spaces between individual floor boards.

**DEED RESTRICTION**

A restriction upon the use of a property set forth in the deed.

**DENSITY (GROSS) FOR USE IN SECTION ZN 4.08(4) ONLY**

The number of dwelling units per acre resulting from taking the number of dwelling units to be built upon a tract of land and dividing it by the total number of acres. Gross density makes no allowance or accounting for infrastructure, such as streets, parks and other non-residential uses, upland primary environmental corridors; or unbuildable lands, such as floodlands, wetlands, and lands having slopes of twenty (20%) percent or greater.

**DENSITY (NET) FOR USE IN SECTION ZN 4.08(4) ONLY**

The number of dwelling units per acre resulting from taking the number of dwelling units to be built upon a tract of land and dividing it by the total number of acres excluding street rights-of-way, non-residential uses, upland primary environmental corridors, isolated natural areas and all lands having slopes of twenty (20%) percent or greater.

**DEVELOPABLE NET ACRE**

Those lands within a development parcel remaining after the deletion of floodlands, wetlands, land densely covered with trees and shrub growth on slopes of twelve (12%) percent or greater, all lands having slopes of twenty (20%) percent or greater, and all lands proposed for commercial or business land uses.

**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.

**DIRECTLY OPPOSITE**

Those tracts of land on opposite sides of the street with only the street intervening.

**DISTRICT**

A part or parts of the Village for which the regulations of this Ordinance governing the use and location of land and buildings are uniform.

**DISTRICT, BASIC**

A part or parts of the Village for which the regulations of this Ordinance governing the use and location of land and buildings are uniform (such as the residential, commercial, and industrial district classifications).

**DISTRICT, OVERLAY**

Overlay districts allow for superimposing certain additional requirements or uses upon a basic zoning district which are compatible with the basic district. If there are conflicting requirements, those which are stricter shall apply.

**DITCHING**

The process of excavation for purposes of surface water drainage and removal; a shallow channel, not navigable, used for the conductance of waters.

**DNR**

The Wisconsin Department of Natural Resources.

**DOG KENNEL**

A facility for the keeping or boarding of more than four (4) dogs over six (6) months of age.

**DOMESTIC SERVANT**

A person who lives in the family of another, paying no rent for such occupancy and paying no part of the cost of utilities therefore, performing household duties and working solely within the house for the upkeep thereof and for the care and comfort and convenience of the family and occupants thereof. No person, and no member of the family of any person, who pays rent for himself or his family shall be deemed the domestic servant of the person to whom such rent is paid.

**DORMITORY**

A building or portion thereof used for sleeping purposes in connection with a school, college or other institution.

**DRAIN**

A surface ditch or underground tile line constructed for the purpose of lowering the water table so that land may be farmed or used for other purposes.

**DRAIN TILE LANE**

The placement of tile for the purpose of removing excess waters from the soil, either for agricultural purposes or for the removal of waters around the building foundations.

**DRAINAGE BASIN**

The geographic area the general configuration of which causes surface waters to flow in a specified direction, the area, contained by a naturally defined watershed, draining all surface waters.

**DRAINAGE SYSTEM**

One (1) or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

**DRAINAGEWAY**

Any natural or artificial water course, including but not limited to streams, rivers, creeks, ditches, channels, canals, conduits, culverts, streams, waterways, gullies, ravines or washes in which waters flow in a definite direction or force, either continuously or intermittently and including any area adjacent thereto which is subject to inundation by reason of overflow or flood water.

**DREDGING**

The process of which bottom materials are removed from bodies of water for the purposes of deepening the body of water.

**DRIVE-IN**

A term used to describe an establishment designed or operated to serve a patron while seated in an automobile parked in an off-street parking space.

**DRY LAND ACCESS**

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

**DUMP**

A lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning, or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

**DUPLEX**

A building designed and/or used exclusively for residential purposes and containing two (2) dwelling units separated by a common party wall or otherwise structurally attached.

**DUSTFALL**

The rate that particulate matter collects in an open jar for a thirty (30) day period, expressed as tons per square mile per month. Procedures and equipment for the measurement of such shall be as standardized by the American Society for Testing and Materials.

**DWELLING, ATTACHED**

A dwelling with two (2) or more party walls, or one (1) party wall in the case of a dwelling at the end of a group of attached dwellings.

**DWELLING, DETACHED**

A dwelling which is designed to be and is substantially separate from any other structure or structures except accessory buildings.

**DWELLING, GROUP**

A single-family dwelling and one (1) or more other single-family or duplex dwellings located on a lot.

**DWELLING, MULTIPLE**

A building or portion thereof used for occupancy by three (3) or more families living independently of each other, and doing their own cooking in the building including apartments, group houses, and row houses.

**DWELLING, RESIDENTIAL**

A building or portion thereof, used exclusively for residential occupancy, including one-family, two-family and multiple dwellings, but not including hotels, motels, lodging-houses, boardinghouses or tourist homes.

**DWELLING, ROW HOUSE OR TOWN HOUSE**

One (1) of a series of three (3) or more attached dwelling units separated from one another by continuous vertical party walls without openings from basement floor to roof.

**DWELLING, SEMI-DETACHED**

A dwelling having a party wall in common with another dwelling but which otherwise is designed to be and is substantially separate from any other structure or structures except accessory buildings.

**DWELLING, SINGLE-FAMILY**

A residential dwelling consisting of one (1) dwelling unit designed for, converted to, and/or occupied by one (1) family and not attached to another dwelling unit. For the purposes of this chapter, a single-family dwelling shall include conventional site built, modular and manufactured homes (not located in a Mobile Home/Manufactured Home Park/Subdivision District) and shall comply with the building, height, area and design standards delineated in the single-family residential districts. For the purposes of this chapter, a single-family dwelling does not include a mobile home or a manufactured home (located in a Mobile Home/Manufactured Home Park/Subdivision District).

**DWELLING, TWO-FAMILY**

A detached or semi-detached building used for residential occupancy by two (2) families living independently of each other.

**DWELLING UNIT**

Consists of one (1) or more rooms, including a bathroom and complete kitchen facilities, which are arranged, designed or used as living quarters for one (1) family or household.

**EARNs A SUBSTANTIAL PART OF HIS OR HER LIVELIHOOD FROM THE FARM OPERATION.**

Twenty-five (25%) percent of the annual gross income is earned from direct farm labor.

**EARTH MOVING**

Any process which physically alters the existing topography by means of mechanical or hydraulic equipment and the voiding of soils of vegetated cover so as to make the same soil susceptible to erosion.

**EARTH REMOVAL**

The removal or extraction of any stone, sand, gravel, loam, topsoil, or other earth or earth product from a lot or parcel of land, except where such removal is for the purpose of grading a lot upon which a building is to be erected, a roadway to be built, or a platting thereof to be made.

**EARTHBORNE VIBRATIONS**

Describes a cyclic movement of the earth due to energy propagation.

**EASEMENT**

A right given by the owner of land to another party for specific limited use of that land.

**EASEMENT, CONSERVATION**

The grant of a property right or interest from one (1) property owner to another person, agency, unit of government, or other organization stipulating that the described land shall remain in its natural, scenic, open or wooded state, precluding future or additional development.

**EASEMENT OF RECORD**

An access easement for ingress and egress to a parcel recorded in the Kenosha Village Register of Deeds office prior to the effective date of this Ordinance.

**EAVE**

The projecting lower edges of a roof, not including the roof gutter, overhanging the vertical wall of a building.

**EFFICIENCY KITCHEN**

A small kitchen, also referred to as a kitchenette, usually consisting of a refrigerator, microwave or hotplate and sink.

**EGG PRODUCTION COMMERCIAL**

An animal confinement facility used or designed for the raising of poultry for egg production having a capacity of two hundred (200) or more animal units.

**ELECTRONIC MESSAGE CENTER (EMC)**

A type of changeable copy sign that utilizes computer-generated messages or some other electronic means of changing copy, but not including video. These signs include displays using incandescent lamps, LEDs, LCDs or a flipper matrix.

**EMERGENCY SHELTER**

Public or private enclosures designed to protect people from aerial, radiological, biological, or chemical warfare, fire, flood, windstorm, riots, and invasions.

**ENLARGEMENT, OR TO ENLARGE**

An "enlargement" is an addition to the floor area of an existing building, an increase in the size of any other structure, or an increase in that portion of a tract of land occupied by an existing use. To "enlarge" is to make an enlargement.

**ENLARGEMENT OF A QUARRY OR NON-METALLIC MINING OPERATION**

Any vertical or horizontal increase in the mined area or the area occupied by or utilized in connection with any of the operations or related activities.

**EROSION**

The process by which the ground surface is worn away by action of wind or water.

**ESSENTIAL SERVICES**

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



**EXCAVATION**

The act by which soil, earth, sand, gravel, rock or any similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed and shall include the conditions resulting therefrom.

**EXCEPTION**

The use of property, including the use and location of buildings, the size of lots and the dimensions of required yards, otherwise not allowable under the terms of this Ordinance, which is permissible by reason of special provisions of this Ordinance, or for which a special permit may be issued by the Department of Planning and Development or the board of adjustment, under conditions specified in this Ordinance. Same as a conditional use.

**EXISTING DEVELOPMENT PATTERN**

Means that principal structures exist within two hundred fifty (250) feet of a proposed principal structure in both directions along the shoreline.

**EXPRESSWAY**

A divided arterial street or highway with full or partial control of access and with or without grade separated intersections.

**EXTEND**

Implies increase or amplification as distinguished from inception.

**EXTENSION, OR TO EXTEND**

An increase in the amount of existing floor area used for an existing use within an existing building. To "extend" is to make an extension.

**EXTERIOR WALL SURFACE**

The most exterior part of a wall, sun screen or any screening or material covering a building.

**FAMILY**

One (1) or more persons occupying a dwelling unit and living as a single, non-profit housekeeping unit based on an intentionally structured relationship providing organization and stability; provided that a group of more than four persons who are not related by blood, marriage, adoption or guardianship shall not be deemed to constitute a family. This does not exclude community living arrangements or foster family homes in conformance with all state statutory requirements.

**FARM**

A zoned area which is used for the growing of the usual farm products such as vegetables, fruit trees, and grain, etc., and their storage on the area, as well as for raising thereon the usual farm poultry and farm animals, such as horses, cattle, sheep and swine, etc.

**FARM OPERATOR**

Any person who owns land and raises crops or livestock on that land; or a person who rents land to another for agricultural purposes and lives on the land having day-to-day contact with the farm operation; or a person who lives on the land that he or she has historically farmed. For the purpose of

this Ordinance, any person who has farmed land for five (5) consecutive years is deemed to have farmed it historically.

**FARMING**

The business of cultivating land, or employing it for the purposes of husbandry; the cultivation and fertilization of the soil as well as caring for and harvesting the crops.

**FARMSTEAD**

A group of existing buildings with accessory structures used for agricultural purposes, such as barns, silos, storage sheds, cribs, and coops, and which may or may not include a dwelling.

**FEDERAL EMERGENCY MANAGEMENT AGENCY**

The federal agency which administers the National Flood Insurance Program. This agency was formerly known as the Federal Insurance Administration (FIA) and was part of the U.S. Department of Housing and Urban Development (HUD).

**FEEDLOT, COMMERCIAL**

The following facilities shall be considered feedlots: (1) any tract of land or structure wherein any type of fowl or the by-products thereof are raised for sale at wholesale or retail; (2) any structure, pen, or corral wherein cattle, horses, sheep, goats, and swine are maintained in close quarters for the purpose of fattening such livestock for final shipment to market; (3) the raising of swine under any conditions. An animal confinement facility used or designed for the feeding or holding of five hundred (500) or more animal units for a period of thirty (30) days or more.

**FENCE**

A structure for enclosure or screening

**FILL**

Any act by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed, pulled or transported and shall include the condition resulting therefrom.

**FILL (CLEAN)**

Clean fill is "uncontaminated soil, rock, sand, gravel, concrete, asphaltic concrete, cinder blocks, brick, for fill, reclamation or other beneficial use". Concrete containing wire mesh or rebar may be considered as clean fill. However, exposed rebar should be removed to the maximum extent possible (any rebar or wire mesh sticking out of the concrete, must be shorter than two (2) inches before use in order to prevent a public nuisance or health and safety hazard. Broken concrete placed in the shoreland must be buried with soil capable of establishing permanent vegetation.

**FILLING**

Any act by which soil, earth, sand, gravel, rock or any similar material is deposited, placed, pushed, pulled or transported and shall include the condition resulting therefrom.

**FLOATING ZONE**

A special detailed use district of undetermined location, a district in which the proposed kind, location, size, and form of structures must be preapproved, and which, like a special exception use, is legislatively

pre-deemed compatible with the areas in which it may thereafter be located on a particular application, provided specified standards are gratified and actual incompatibility is not revealed. Same as overlay district.

### **FLOOD or FLOODING**

A general and temporary condition of partial or complete inundation of normally dry land areas caused by one (1) of the following conditions:

- The overflow or rise of inland waters;
- The rapid accumulation or runoff of surface waters from any source;
- The inundation caused by waves or currents of water exceeding anticipated cyclical levels along the shore of Lake Michigan; or
- 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.

### **FLOOD FREQUENCY**

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

### **FLOOD INSURANCE RATE MAP (FIRM)**

A map of a community on which the Federal Insurance Administration has delineated both 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**

An examination, evaluation, and determination of flood hazards, and if appropriate, corresponding water surface elevations; or an examination, evaluation, and determination of mudslide (i.e., mud flow) and/or flood-related erosion hazards. Such studies shall result in the publication of a Flood Insurance Rate Map showing the intensity of flood hazards in either numbered or unnumbered A Zones.

### **FLOOD PROFILE**

A graph showing the relationship of the flood water, surface elevation for a flood event of a specified recurrence interval to the stream bed and other significant natural and man-made features along a stream.

### **FLOOD PROTECTION ELEVATION**

A point two (2) feet above the water surface elevation of the one hundred (100) year recurrence interval flood. This safety factor, also called "freeboard" is intended to compensate for the many unknown factors that contribute to flood heights greater than those computed. Such unknown factors may include ice jams, debris accumulation, wave action, and obstructions of bridge openings.

**FLOOD STAGE**

The elevation of the flood water surface above an officially established datum plain. In Southeastern Wisconsin, it is recommended that the datum plain used be Mean Sea Level, 1929 Adjustment.

**FLOOD STORAGE**

Those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

**FLOODLANDS**

For the purpose of this Ordinance, the floodlands are all lands contained in the "regional flood" or one hundred (100) year recurrence interval flood.

**FLOODPLAIN**

Land which has been or may be covered by flood water during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

**FLOODPLAIN FRINGE**

Those floodlands, outside the floodway, subject to inundation by the one hundred (100) year recurrence interval flood.

**FLOODPLAIN ISLAND**

A natural geologic land formation within the floodplain (floodlands) that is surrounded, but not covered, by floodwater during the occurrence of the regional flood.

**FLOODPROOFING**

Any combination of structural and non-structural additions, changes or adjustments which reduce or eliminate flood damage to unimproved and improved real estate, water and sanitary sewer facilities, structures and their contents. (See also Section ZN 3.05(4)(1) of this Ordinance).

**FLOODWAY**

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

**FLOOR AREA**

The sum of the areas of the several floors of the structure, as measured by the exterior faces of the walls, including fully enclosed porches and the like as measured by the exterior limits thereof, but excluding (a) garage space which is in the basement of a building or, in the case of garage space accessory to a dwelling, is at grade, (b) basement and cellar areas devoted exclusively to uses accessory to the operation of the structure, and (c) areas elsewhere in the structure devoted to housing mechanical equipment customarily located in the basement or cellar such as heating and air conditioning equipment, plumbing, electrical equipment, laundry facilities, and storage facilities. See also "Ground Floor Area".

**FLOOR AREA--BUSINESS, COMMERCIAL AND INDUSTRIAL BUILDINGS**

For the purpose of determining off-street parking and off-street loading requirements. The sum of the gross horizontal areas of several floors of the building, or portion thereof, devoted to a use requiring off-street parking or loading. This area shall include accessory storage areas located within selling or working space, such as counters, racks or closets and any basement floor area devoted to retailing activities, to the production or processing of goods, or to business or professional offices. However, floor area, for the purposes of determining off-street parking spaces shall not include floor area devoted primarily to storage purposes except as otherwise noted herein.

**FLOOR AREA--GROSS**

The sum of the gross horizontal areas of all floors measured in square feet, not including the basement floor, measured from the exterior faces of the exterior walls or from the centerline of walls separating two (2) buildings. The gross floor area of a building includes elevator shafts and stairwells at each floor, floor space used for mechanical equipment, (except equipment--open or closed--located on a roof or basement), penthouses, attic space having a head room of seven (7) feet ten (10) inches or more, interior balconies and mezzanines, enclosed porches, and floor area devoted to accessory uses.

**FLOOR AREA RATIO**

The total floor area on a zoning lot, divided by the lot area of that zoning lot.

**FOOT CANDLE**

A unit of illumination. Technically, the illumination at all points one (1) foot distant from a uniform point source of one (1) candle power.

**FOSTER HOME**

Any home licensed as such by the State Department of Health and Social Services.

**FRATERNITY**

A body of men associated for their common interest, business, or pleasure.

**FRATERNITY OR SORORITY HOUSE**

A building containing no more than one (1) dwelling unit and more than two (2) rooming units or guest rooms. Such rooming units or guest rooms shall be for residential purposes only.

**FREE BURNING**

Implies a rate of combustion described by a material which burns actively, and easily supports combustion.

**FREEBOARD**

A flood protection elevation requirement designed as a safety factor which is usually expressed in terms of a certain amount of feet above a calculated flood level. Freeboard compensates for the effects of any factors that contribute to flood heights greater than those calculated. These factors include, but are not limited to, ice jams, debris accumulation, wave action, obstruction of bridge openings and floodways, the effects of urbanization on the hydrology of the watershed, loss of flood storage areas due to development and aggradation of a river or stream bed.

**FREEWAY**

An expressway with full control of access and with fully graded separated intersections.

**FREIGHT FORWARDING SERVICE**

Establishments primarily engaged in undertaking the transportation of goods from shippers to receivers for a charge covering the entire route, which may involve the use of multiple carriers and transportation establishments in effecting delivery. A freight forwarding service may provide for temporary storage of goods in a delivery vehicle while such vehicle awaits pick-up by another carrier.

**FREQUENCY**

Signifies the number of oscillations per second in a sound wave and is an index of the pitch of the resulting sound.

**FRONT; FRONTAGE**

That side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

**FUNERAL HOME**

A dwelling or other structure used and occupied by a professional licensed mortician for burial preparation and funeral services.

**FUR FARM**

Any property comprising land or buildings or both, used for the purpose of raising or harboring fur bearing animals including those defined in §29.01(3)(c), Wis. Stats., and also including chinchillas and other fur bearing animals, if any, whether the animals are kept for breeding or slaughtering or pelting purposes.

**GARAGE**

A building for the storing of motor vehicles.

**GARAGE, ATTACHED**

A private garage which has a roof or wall, or a major portion of a roof or wall, in common with a dwelling. Where the garage is attached to a dwelling in this manner, it shall be subject to all yard requirements of the main building.

**GARAGE, PARKING**

A building or portion thereof designed or used for the temporary storage of motor driven vehicles, with or without the retail dispensing, sale, or offering for sale of motor fuels, lubricants, and tires, or indoor car washing, minor motor adjustment, and flat tire repair when such operations are incidental to the storage of motor-driven vehicles.

**GARAGE, PRIVATE**

A detached accessory building or portion of a main building, used for the storage of self-propelled vehicles where the capacity does not exceed three (3) vehicles, or not more than one (1) per family housed in the building to which such garage is accessory, whichever is the greater, and not more than

one-third (1/3) the total number of vehicles stored in such garage shall be commercial vehicles. Storage space for not more than three (3) vehicles may be rented for vehicles of other than occupants of the building to which such garage is accessory.

**GARAGE, PUBLIC**

A building or portion thereof used for the housing of motor vehicles or where such vehicles are equipped for operation, repaired or kept for remuneration, hire or sale, not including exhibition or showroom for model cars.

**GARAGE, STORAGE**

Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold and vehicles are not equipped, serviced, repaired, hired or sold. No commercial motor vehicle exceeding five (5) tons capacity shall be stored in any storage garage.

**GARDEN APARTMENT**

A multiple family dwelling which shall not exceed four (4) stories in height.

**GASOLINE STATION**

Includes not only the building provided for repair work, the storage of supplies, and the use and shelter of the operatives, but also tanks, pumps, structures, and filling stations for business purposes and the supplying of gas, fuel, and oil for automobiles of the general public. It also includes, of necessity, suitable approaches and exits at substantially the level of the street.

**GAZEBO**

A freestanding structure (similar to a detached open patio cover), with a pitched roof design, having a maximum height of fifteen (15) feet, and maximum area of one hundred fifty (150) square feet, and shall be designed for recreational use only and not for habitation.

**GIFT STORES**

Retail stores where items such as art, antiques, jewelry, books and notions are sold.

**GOLF COURSE**

A comparatively large unobstructed acreage involving enough room over which to walk or ride, point to point, over a generally prescribed course, and to strive to send a ball long distances with variable accuracy, all without unreasonably endangering other players or intruding upon them.

**GRADE**

In cases where all walls of the principal building are more than five (5) feet from the nearest street line, the mean elevation of the ground adjoining the building on all sides; and in all other cases, the mean elevation of the nearest sidewalk.

**GRADING**

Any stripping, excavating, filling, stockpiling, or any combination thereof, including the land in its excavated or filled condition.

**GREEK REVIVAL ARCHITECTURAL STYLE**

Style of residence of which one (1) of the features is to have an eave less than twelve (12) inches.

**GROUND FLOOR AREA**

The square foot area of a building within its largest outside dimensions, exclusive of open porches, breezeways, terraces, garages, exterior stairways, and secondary stairways.

**GROUND SIGNS**

Includes billboard signs and any other sign secured to the ground and not to a building except tower signs.

**GROUP HOME**

Any home licensed as such by the State Department of Health and Social Services.

**GUEST HOUSE**

Living quarters within a detached accessory building located on the same premises with the main building, for use by temporary guests of the occupants of the premises; such quarters not rented or otherwise used as a separate dwelling.

**GUEST ROOM**

A room in a hotel, motel, or tourist home offered to the public for compensation in which room no provision is made for cooking and which room is used only for transient occupancy.

**HABITABLE BUILDING/STRUCTURE/MOBILE HOME/MANUFACTURED HOME**

Any building, or portion thereof, used for human habitation.

**HABITABLE ROOM**

A room in a dwelling unit designed to be used for living, sleeping, eating, or cooking, excluding bathrooms, toilet compartments, closets, halls, storage, and similar space.

**HALFWAY HOUSE--GROUP HOME**

A residential facility for five (5) or more adults who have been institutionalized for various reasons and released, or who have or have had physical or social disabilities which make operation in society difficult and require the protection of a group setting to facilitate the transition to a functional member of society (e.g., former convicts, alcoholics, drug addicts, mental patients, etc.); shelter, supervision and residential rehabilitative services are provided and the home is licensed to operate as such by the State Department of Health and Social Services.

**HEARING NOTICE**

Publication or posting meeting the requirements of Ch. 985, Wis. Stats. For appeals, a Class 1 notice, published once at least one (1) week (seven (7) days) before the hearing, is required. For all zoning ordinances and amendments, a Class 1 notice, published once, at least a week (seven (7) days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.



**HEIGHT OF BUILDING**

The vertical distance from the grade at the front of a building to the highest point of the coping of a flat roof between the eaves and a ridge or to the deck line of a mansard roof or the average height between the plate and ridge of a gable, hip, or gambrel roof.

**HELIPORT**

An area used or to be used for landing or take-off of helicopters or other steep-gradient aircraft capable of hovering, and may include any or all of the area or buildings which are appropriate to accomplish these functions.

**HISTORIC STRUCTURE**

Any structure that is either:

- 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;
- 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;
- 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
- 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.

**HOME FOR THE AGED/HOUSING FOR THE ELDERLY**

A facility, however named, which is designed, staffed and equipped for the care of individuals who are not in need of hospital or nursing care but who are in need of assistance due to age with everyday activities of living in a protected environment.

**HOME OCCUPATION OR PROFESSION**

Any use customarily conducted entirely within a dwelling and carried on by the occupants thereof, which use is clearly incidental and secondary to the use of the dwelling for dwelling purposes and does not change the character thereof, and in connection with which there is no display, no stock in trade and no outside storage of equipment upon the premises.

**HOMEOWNERS ASSOCIATION (HOA)**

A community association, incorporated or unincorporated, combining individual home ownership with shared use or ownership of common property or facilities. The association is responsible for maintaining the common facilities and delivering services, but may or may not own the common facilities.

**HOSPITAL**

An institution providing health services, primarily for in-patients, and medical or surgical care of the sick or injured, including as an integral part of the institution, such related facilities as laboratories, out-patient departments, training facilities, central service facilities, and staff offices.

**HOTEL**

A building containing twenty (20) or more individual sleeping rooms or suites, having each a private bathroom attached thereto, for the purpose of providing overnight lodging facilities to the general public for compensation with or without meals, excluding accommodations for employees, and in which ingress and egress to and from all rooms is made through an inside office or lobby supervised by a person in charge at all hours. Where a hotel is permitted as a principal use, all uses customarily and historically accessory thereto for the comfort, accommodation and entertainment of the patrons, including the service of alcoholic beverages, shall be permitted.

**HOUSE TRAILER**

A vehicular portable dwelling unit designed especially for short term occupancy; such as travel trailers, campers, house boats, converted buses and other similar units whether self propelled, pulled or hauled and are designed primarily for highway travel.

**HUSBANDRY**

The cultivation or production of plants and animals (livestock) and/or the by-products thereof.

**ILLEGAL USE**

As any use, whether of a building or other structure, or of a tract of land, or body of water in which a violation of any provision of this Ordinance has been committed or shall exist.

**IMPACT NOISE**

A short-duration sound which is incapable of being accurately measured on a sound level meter.

**IMPERVIOUS SURFACE**

An area that releases as runoff all or a majority of the precipitation that falls of it. "Impervious surface" excludes frozen soil but includes rooftops, sidewalks, driveways, parking lots, and streets unless specifically designed, constructed, and maintained to be pervious. Roadways as defined in Wis. Admin. Code §340.01(54) or sidewalks as defined in Wis. Admin. Code §340.01(58) are not considered impervious surfaces.

**IMPROVEMENT**

Any building, structure, place, work of art, or other object constituting a physical betterment of real property, or any part of such betterment including street grading and surfacing with or without curbs and gutter, sidewalks, crosswalks, water mains, sanitary and storm sewers, culverts, bridges, streets, and trees.

**IMPULSIVE NOISE**

A sound which is no longer than two (2) seconds in duration, followed by no less than a two (2) second rest.

**INCREASE IN REGIONAL FLOOD HEIGHT**

A calculated upward rise in the regional flood elevation greater than 0.00 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.

**INDOOR RECREATION**

A principal building or area used for recreational activities such as bowling alleys, firearm ranges, skating rinks, athletic and health clubs, tennis, racquetball and handball courts and swimming pools.

**INDOOR RIDING ARENA (PRIVATE)**

See Riding Stable (Private)

**INDOOR RIDING ARENA (PUBLIC)**

See Riding Stable (Public)

**INSTITUTION**

A non-profit establishment for public use.

**INSTITUTIONAL HOME**

A place for the care of babies, children, pensioners or the elderly.

**INTENSE BURNING**

Implies a rate of combustion described by a material that burns with a high degree of activity and is consumed rapidly.

**INTERCHANGE**

A grade separated intersection with one (1) or more turning lanes for travel between intersection lanes.

**INTERSECTING STREET**

Any street or public way or court, thirty (30) feet or more in width, which joins another at an angle, whether or not it crosses the other.

**JUNK**

Includes without limitation due to enumeration scrap iron, scrap tin, scrap brass, scrap cooper, scrap lead or scrap zinc and all other scrap metals and their alloys and bones, rags, used cloth, used rubber, used rope, used tinfoil, used bottles, old or used machinery, used tools, used appliances, used fixtures, used utensils, used lumber, used boxes or crates, used pipe or pipe fittings, used automobiles or air-plane tires, and other manufactured goods that are so worn, deteriorated or obsolete as to make them unusable in their existing condition.

**JUNK MERCHANT**

Any person, firm, or corporation engaged in the business of buying, selling, exchanging, or dealing in old junk, metals, bottles, siphons, old rope, old iron, brass, copper, tin or lead, secondhand plumbing materials, secondhand gas and electric fixtures, old rubber tires or other used or old articles commonly designated as "junk", and having a store, stand, or place of business.

**JUNKYARD**

A place where junk, waste, discarded, or salvaged materials are bought, sold, exchanged, stored, baled, packed, disassembled, wrecked or dismantled, or handled, including automobile wrecking yards, house wrecking, and structural steel materials and equipment, but not including the purchase or storage of

used furniture and household equipment, used cars in operable condition, used or salvaged materials as part of manufacturing operations.

**KENNEL**

Any lots or premises on which four or more dogs or cats, or both, at least four (4) months of age are kept, boarded, or trained, whether in special structures or runways or not.

**KITCHEN**

Any room used for the preparation of foods and containing all of the following equipment: sink, stove/oven and refrigerator.

**LABORATORY**

A building or part of a building devoted to the testing and analysis of any product or animal (including humans) or to the development of and fabrication of preliminary or pilot models. Also includes a laboratory which provides bacteriological, biological, medical, x-ray, pathological and similar analytical or diagnostic services to doctors or dentists. No fabricating is conducted on the premises, except the custom fabrication of dentures. No manufacturing is conducted on the premises except for experimental or testing purposes.

**LAGOON**

A water body in a depression that of an off-shore bar, a beach ridge, or shore dune, with those geomorphic features, either natural or man-made, acting as barriers or dams. Also, a shallow pond, channel, or impoundment connected to a larger body of water.

**LAGOONING**

The act of creating a lagoon.

**LAND LINE**

section lines, half-section lines, quarter-section lines, and other property lines established by meets and bounds outside the boundaries of reported land subdivision plats.

**LAND USE**

Any non-structural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

**LANDFILL**

See "Sanitary Landfill".

**LANDSCAPED AREA**

An area that is permanently devoted and maintained to the growing of trees, shrubbery, grass and other plant material.

**LANDSCAPING**

The improvement of a lot, parcel or tract of land with grass and shrubs and/or trees. Landscaping may include pedestrian walks, flowerbeds, ornamental objects such as fountains, statuary, and other similar natural objects designed and arranged to produce an aesthetically pleasing effect.

**LAUNDROMAT**

A business that provides washing, drying, and/or ironing machines for hire to be used by customers on the premises.

**LEAST RESTRICTIVE DISTRICT**

Agricultural Districts are less restrictive than Residential Districts

Residential District are less restrictive than Business Districts

Business Districts are less restrictive than Manufacturing Districts

Manufacturing Districts are less restrictive than Institutional Districts

Institutional Districts are less restrictive than Conservancy Districts

Conservancy Districts are less restrictive than Overlay Districts

**LEGALLY EXISTING**

See Section ZN 5.02(2)(b).

**LETTER OF MAP AMENDMENT (LOMA)**

Official notification from the Federal Emergency Management Agency (FEMA) that a Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended.

**LETTER OF MAP REVISION (LOMR)**

Official notification from the Federal Emergency Management Agency (FEMA) that a municipality's Flood Hazard Boundary Map or Flood Insurance Rate Map has been amended. A LOMR is issued when the revised map is not republished.

**LIBRARY**

A place in which books, manuscripts, musical scores or other literary and artistic materials are kept for use and only incidentally for sale.

**LIVESTOCK-ANIMAL**

Shall be animals of any kind kept or raised for sale, resale, agricultural field production or pleasure, excluding fur-bearing animals.

**LIVING QUARTERS**

One (1) or more rooms in a building designed for occupancy by one (1) or more persons for living and/or sleeping.

**LIVING ROOMS**

All rooms within a dwelling except closets, foyers, storage areas, utility rooms and bathrooms.

**LOADING AREAS**

A completely off-street space or berth on the same lot for the loading or unloading of freight carriers, having adequate ingress and egress to public street or alley.

**LOADING SPACE**

An off-street space, at least ten (10) feet by fifty (50) feet with a minimum height clearance of fourteen (14) feet, for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials, and which abuts on a street or other appropriate means of access.

**LODGINGHOUSE**

A building other than a hotel, where lodging, without meals, for five (5) or more persons is provided for compensation.

**LOT**

For the purpose of the Village Zoning Ordinance, a lot shall be defined as a tract of land on which a principal building and its accessory building(s) are or may be placed, together with the required open spaces.

**LOT AREA**

The area of a horizontal plane bounded by the front, side, and rear lot lines. No lands dedicated to the public or reserved for roadway purposes shall be included in the computation of lot area except in the A-1, A-2, A-3 and A-4 Agricultural Districts.

**LOT AREA—BUILDABLE**

The portion of a lot remaining after required yards have been provided.

**LOT, BUILDING**

Land occupied or to be occupied by a building and its accessory buildings, or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this Ordinance, having not less than the minimum area and width required by this Ordinance for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of the law to be adequate as a condition of the issuance of a building permit for a building on such land.

**LOT, CORNER**

A lot which occupies the interior angle at the intersection of two (2) street lines which make an angle of less than one hundred thirty-five (135°) degrees with each other.

**LOT COVERAGE**

That percentage of a lot which, when viewed directly from above, would be covered by a structure or structures, or any part thereof, excluding projecting roof eaves.

**LOT DEPTH**

The mean horizontal distance between the front and rear lot lines, measured in the general direction of the side lot lines.

**LOT, INTERIOR**

A lot other than a corner lot.

**LOT LINES**

The lines bounding a lot.

**LOT LINES AND AREA**

The peripheral boundary of a parcel of land and the total area lying within such boundaries.

**LOT LINE, FRONT**

The line separating the lot from the street

**LOT LINE, REAR**

The line which most nearly qualifies as the line most distant and opposite from the front lot line; where the line is irregularly shaped, a line perpendicular to the mean direction of the side lot lines, and at least ten (10) feet in length within the lot.

**LOT LINE, SIDE**

Any lot line other than a front lot line or a rear lot line.

**LOT OF RECORD**

A lot which is part of a recorded subdivision or a parcel of land which has been recorded at the Kenosha Village Register of Deeds Office and which has been assigned a property parcel number.

**LOT, SUBSTANDARD**

A parcel of land having frontage on a public street, easement of record or other officially approved means of access, occupied or intended to be occupied by a principal building or structure together with accessory buildings and uses having insufficient size to meet the lot width, lot area, yard, off-street parking areas, or other open space provisions of this Ordinance.

**LOT, THROUGH**

A lot, other than a corner lot, having frontage on more than one (1) street.

**LOT WIDTH**

The width of a parcel of land measured at the rear of the specified street yard.

**LOWEST FLOOR**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of 44 CFR 60.3.

**LUMINANCE**

Means the brightness of an object, expressed in terms of foot-lamberts, determined from other premises or from the street's public right of way, whichever is closer to the sign.

**MACHINE SHOPS**

Includes without limitation due to enumeration shops with lathes, presses, grinders, shapers, and other wood and metal working machines, such as blacksmith, tinsmith, welding and sheetmetal shops; plumbing, heating and electrical repair and overhaul shops.

**MAINTENANCE**

Includes internal and external painting, decorating, and the replacement of doors, windows, siding, roofing shingles and other non-structural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities.

**MANUFACTURED HOME**

A residential dwelling for one (1) family as is defined in §101.91(2), Wis. Stats., fabricated in an off-site facility for installation or assembly at the building site, bearing a HUD (U.S. Department of Housing and Urban Development) label or insignia certifying that it is built in compliance with the Federal Manufactured Housing Construction Standards under 42 U.S.C. § 5401 to 5425, and built after June 14, 1976. A manufactured home shall be considered a single-family dwelling for the purposes of this chapter only where it meets the building, height, area and design standards delineated in the single-family residential districts and is located in the single-family residential districts. When located in the single-family residential districts, all wheels, axles, transportation lights, and other related towing apparatuses shall be removed. For the purposes of this chapter, a manufactured home shall be considered a dwelling unit when located in the Mobile Home/Manufactured Home Park/Subdivision District.

**MANUFACTURING**

The processing and converting of raw, unfinished, or finished materials or products, or any of these into an article or substance of different character, or for use for a different character, or for use for a different purpose; also industries furnishing labor in the case of manufacturing or the refinishing of manufactured articles.

**MARINA**

A place for docking or storage of pleasure boats or providing services to pleasure boats and the occupants thereof, including minor servicing and repair to boats while in the water, sale of fuel and supplies, or provision of lodging, food, beverages, and entertainment as accessory uses. A yacht club shall be considered a marina, but a hotel, motel, or similar use, where docking of boats and provision of services thereto, is incidental to other activities shall not be considered a marina, nor shall boat docks accessory to a multiple dwelling where no boat related services are rendered.

**MATERIAL MODIFICATION**

With respect to quarrying and non-metallic mining operations, "material modification" means any change in the approved plan of operations or the approved plan of reclamation which is significant in terms of the concerns addressed by Section ZN 5.03(8)(b)97a of this Ordinance, including, without limitation, any non-approved enlargement.

**MICRON**

A unit of length, equal to one thousandth part of one millimeter (.001 millimeter).



**MINI-WAREHOUSING**

Establishments used for the dead storage of customers' goods and wares where individual stalls or lockers are rented out to different tenants for storage where one (1) or more of the stalls or lockers is less than five hundred (500) square feet in area.

**MITIGATION**

Balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities.

**MOBILE HOME**

A transportable factory built structure as is defined in §101.91(2)(a), Wis. Stats., designed for long-term occupancy by one (1) family and built prior to June 15, 1976, the effective date of the Federal Manufactured Housing Construction and Safety Standards Act. For the purposes of this chapter a mobile home is considered to be a dwelling unit and is not considered to be a type of single-family dwelling, two-family dwelling, three-family dwelling or multi-family dwelling. All mobile homes shall be located in a Mobile Home/Manufactured Home Park/Subdivision Residential District.

**MOBILE HOME LOT**

A parcel of land, in a mobile home/manufactured home park/subdivision, for the placement of a single mobile home or a single manufactured home and the exclusive use of its occupants.

**MOBILE HOME/MANUFACTURED HOME PARK/SUBDIVISION**

A parcel of land or subdivision used for the placement of two (2) or more mobile homes and/or manufactured homes. Manufactured home developments and subdivisions shall not be included under definition where all manufactured homes meet the regulations in each zoning district for a residential dwelling.

**MODEL, CORRECTED EFFECTIVE**

A hydraulic engineering model that corrects any errors that occur in the Duplicate Effective Model, adds any additional cross sections to the Duplicate Effective Model, or incorporates more detailed topographic information than that used in the current effective model.

**MODEL, DUPLICATE EFFECTIVE**

A copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

**MODEL, EFFECTIVE**

The hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

**MODEL, EXISTING (PRE-PROJECT)**

A modification of the Duplicate Effective Model or Corrected Effective Model to reflect any man made modifications that have occurred within the floodplain since the date of the effective model but prior to the construction of the project for which the revision is being requested. If no modification has occurred since the date of the effective model, then this model would be identical to the Corrected Effective Model or Duplicate Effective Model.

**MODEL, REVISED (POST-PROJECT)**

A modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

**MODERATE BURNING**

Implies a rate of combustion described by a material which supports combustion and is consumed slowly as it burns.

**MODULAR HOME**

A structure transported in one (1) or more sections, which is built on a permanent foundation and meets the minimum requirements of the Wisconsin Uniform Dwelling Code.

**MORGUE**

A place where the unidentified and derelict dead are at all times received and kept and exposed to public view for the purposes of identification.

**MOTEL OR TOURIST CABIN**

A building or group of buildings which: (a) contains sleeping accommodations, each unit having a private bathroom attached thereto, (b) has individual entrances from outside the building to serve each such sleeping unit, (c) is furnished by the owner prior to occupancy, and (d) is leased on a daily rate for transient occupancy.

**NAME PLATE SIGN**

A sign indicating the name and/or occupation of a person or persons residing on the premises or legally occupying the premises, or indicating a home occupation legally existing on the premises.

**NAVD or NORTH AMERICAN VERTICAL DATUM**

Elevations referenced to mean sea level datum, 1988 adjustment

**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 the state, including the Wisconsin portion of boundary waters which are navigable under the laws of the state. Under §144.26(2)(d), Wis. Stats., notwithstanding any other provision of the law or administrative rule promulgated thereunder, shoreland ordinances required under §59.971, Wis. Stats., and Wis. Admin. Code §NR 115 do not apply to lands adjacent to farm drainage ditches if:

- (a) Such lands are not adjacent to a navigable river or stream;
- (b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and
- (c) Such lands are maintained in non-structural agricultural use.

Wisconsin's Supreme Court has declared navigable bodies of water that have a bed differentiated from adjacent uplands and levels or flow sufficient to support navigation by a recreational craft of the

shallowest draft on an annually recurring basis (Muench v. Public Service Commission, 261 Wis. 492 (1952) and DeGayner and Co., Inc. v. Department of Natural Resources, 70 Wis. 2d 936 (1975)). For example, a stream which is navigable by skiff or canoe during normal spring high water is navigable in fact under the laws of the state though it may be dry during other seasons.

**NET RESIDENTIAL AREA**

That portion of a project site designated for residential lots and common open space areas.

**NIGHT CLUB**

An establishment which shall include, in addition to the serving of food and entertainment, the provision for dancing and sale of malt beverages to the public.

**NON-CONFORMING LOT**

See Section ZN 5.02(2)(c).

**NON-CONFORMING STRUCTURE**

See Section ZN 5.02(2)(d).

**NON-CONFORMING USE**

See Section ZN 5.02(2)(e).

**NOXIOUS MATTER**

Material which is capable of causing injury to living organisms by chemical reaction or is capable of causing detrimental effects upon the physical or economic well-being of individuals.

**NUISANCE**

Anything that interferes with the use or enjoyment of property, endangers personal health or safety or is offensive to the senses.

**NURSERY**

Shall be any land used to raise trees, shrubs, flowers, and other plants for sale or for transplanting.

**NURSERY SCHOOL**

A place where three (3) or more children are kept for the purpose of providing supplemental parental care, including day nursery, day care home for children, and kindergarten.

**NURSING HOME**

An institution for the care of children or the aged or infirm, or a place of rest for those suffering bodily disorders; but not including facilities for surgical care. See also "Retirement Home" and "Home For the Aged".

**OBSTRUCTION TO FLOW**

Any development which physically blocks the conveyance of floodwaters such that this development by itself or in connection with any future similar development will cause an increase in regional flood height.

**OCCUPY**

To take or enter upon possession of.

**OCTAVE BAND**

A prescribed interval of sound frequencies which permits classifying sound according to its pitch.

**ODOR THRESHOLD**

The lowest concentration of odorous matter in the air that will produce a response in the normal human nose.

**ODOROUS MATTER**

Any matter or material that yields an odor which is offensive in any way or any matter or material that produces a response in the normal human nose.

**OFFICE**

A room or building in which a person transacts his business or carries on his stated occupation.

**OFFICE BUILDING**

A building designed or used only for office purposes.

**OFFICIAL FLOODPLAIN ZONING MAP**

That map, adopted and made part of this Ordinance, as described in Section ZN 1.02(13), which has been approved by the DNR and FEMA.

**OFFICIAL LETTER OF MAP CHANGE (LOMC)**

LOMC is a letter which reflects an official revision to an effective National Flood Insurance Program (NFIP) map. LOMCs are issued in place of the physical revision and republication of the effective map. Different types of LOMCs may include: a Letter of Map Amendment (LOMA) is an official amendment, by letter, to an effective NFIP map. A LOMA establishes a property's location in relation to the SFHA or a Letter of Map Revision (LOMR) is an official revision, by letter, to an effective NFIP map. A LOMR may change flood insurance risk zones, floodplain and/or floodway boundary delineations, planimetric features, and/or BFE or a Letter of Map Revision Based on Fill (LOMR-F) is an official revision, by letter, to an effective NFIP map. A LOMR-F provides FEMA's determination concerning whether a structure or parcel has been elevated on fill above the BFE and excluded from the SFHA. .

**OFFICIALLY APPROVED MEANS OF ACCESS**

Those roads that have never been formally dedicated but are maintained by the state, Village or town.

**ON-SITE SEWAGE DISPOSAL ABSORPTION SYSTEM**

Includes a state approved septic or mound system for collection of sanitary waste and eventual absorption of such waste into the surrounding soils.

**OPEN SPACE**

That ground area and the space above which is unimpeded from the ground to the sky by any main structure except that the area may be used for landscaping, recreational purposes such as for swimming,

shuffleboard, tennis, etc. Parking lots and storage areas for vehicles and material shall be considered as open space.

**ORDINARY HIGH WATER MARK**

The point on the bank or shore up to which the presence and action of surface water is 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.

**PARK**

A pleasure ground set apart for recreation of the public to promote its health and enjoyment.

**PARK, AMUSEMENT**

An area, publicly or privately owned, containing amusement and recreation facilities and devices, whether operated for profit or not.

**PARK, PUBLIC**

An area owned by the Village, operated for the convenience and recreation of the public, and containing such facilities as the owning municipality shall see fit.

**PARKING AREA**

An off-street area containing one (1) or more parking spaces, with passageways and driveways appurtenant thereto. In general, there shall be an average of at least three hundred fifty (350) square feet of parking area per parking space to insure adequate aisle widths.

**PARKING AREA, PRIVATE**

An open area, other than a street or alley, used for the parking of the automobiles of occupants of a dwelling.

**PARKING AREA, PUBLIC**

An area other than a private parking area, street or alley, used for the parking of automobiles and available for public or quasi-public use.

**PARKING LOT**

An open area other than a street used for the parking of more than four (4) automobiles and available for public use whether free, for compensation, or as an accommodation for clients or customers.

**PARKING SPACE**

A surfaced area, enclosed or unenclosed, sufficient in size to store one (1) automobile not less than nine (9) feet wide and eighteen (18) feet long, together with a driveway connecting the parking space with a street, road or alley and permitting ingress and egress of that automobile without the necessity of moving any other automobile.

**PARTICULATE MATTER**

Dust, smoke, or any other form of airborne pollution in the form of minute separate particles.

**PARTIES IN INTEREST**

Includes all abutting property owners, all property owners within three hundred (300) feet of a parcel and all property owners of opposite frontages and of properties that may be directly and immediately affected by a proposed change in this Ordinance.

**PARTY WALL**

A wall containing no opening which extends from the elevation from building footings to the elevation of the outer surface of the roof or above, and which separates continuous buildings but is in joint use for each building.

**PATIO**

An uncovered and unenclosed surface with no roof or walls, primarily constructed of concrete, brick or other masonry material, which is not elevated above the average level of the ground by more than six (6) inches and primarily intended for outdoor living and recreational purposes.

**PERFORMANCE STANDARD**

A criterion established for the purposes of (1) assigning proposed industrial uses to proper districts, and (2) making judgments in the control of noise, odor, smoke, toxic matter, vibration, fire and explosive hazards, or glare generated by, or inherent in, uses of land or buildings.

**PERMANENT OCCUPANCY**

The rental of housing accommodations or rooms on a week-to-week, month-to-month or year-to-year basis with a fixed rent for each period of occupancy.

**PERSON**

An individual, firm, co-partnership, joint venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, syndicate, or other group or combination acting as a unit.

**PETS, HOUSEHOLD**

Animals commonly found in residences as pets, such as dogs, cats, songbirds, and other small animals, providing that they are not raised or reared for commercial resale or as a source of stable supplement. Household pets shall not include horses, chickens, cows, goats, sheep, hogs, snakes or other animals not commonly found in residences.

**PIERHEAD LINE**

A boundary line established along any section of the shore or any navigable waters by a municipal ordinance approved by the State Department of Natural Resources, pursuant to §30.13, Wis. Stats. Piers and wharves are only permitted to the landward side of such pierhead line unless a permit has been obtained pursuant to §30.12(2), Wis. Stats.

**PLACE**

The establishment of a building or structure in a particular location, whether by original construction or erection or by moving a building or structure to a particular location.

**POLE OR POST COVER/ENCLOSURE**

A cover or enclosure consisting of painted metal, brick, decorative masonry, natural and decorative stone, or masonry with a stucco finish which encloses and is permanently attached to a sign pole, post or pylon that supports the sign. No additional sign copy of lettering is permitted on the cover or enclosure, except for street address numbers.

**PORCH, OPEN/ENCLOSED**

A roof partially or wholly supported by columns and/or wall sections including sunrooms, three-season porches, screen porches, etc.

**PREVIOUSLY DEVELOPED**

A lot or parcel that was developed with a structure legally placed upon it.

**PRIMARY STREET YARD**

A yard normally including the driveway access extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have one (1) primary street yard and one (1) secondary street yard.

**PRINCIPAL USE**

The primary purpose or function that a lot serves or is intended to serve.

**PRIVATE ON-SITE WASTEWATER TREATMENT SYSTEM OR POWTS**

A sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located on the same parcel as the structure. This term also means an alternative sewage system, approved by the Department of Commerce, including a substitute for the anaerobic treatment tank or dispersal cell, a holding tank, a system serving more than one (1) structure or a system located on a different parcel than the structure. A POWTS may be owned by the property owner or by a special purpose district.

**PROFESSIONAL HOME OFFICES**

Residences of doctors of medicine, practitioners, dentists, clergymen, architects, landscape architects, lawyers, professional engineers, registered land surveyors, artists, teachers, authors, musicians or other recognized professions used to conduct their professions where the office does not exceed one half (½) the area of only one floor of the residence and only one (1) non-resident person is employed.

**PROFESSIONAL OFFICE**

The office of a person engaged in any occupation, vocation, or calling, not purely commercial, mechanical, or agricultural in which a professed knowledge or skill in some department of science or learning is used by its practical application to the affairs of others, either advising or guiding them in serving their interest or welfare through the practice of an act founded thereon.

**PUBLIC ENTRANCE**

An architecturally enhanced entrance to an establishment which is provided primarily for use by the patrons or customers of the establishment and not for delivery purposes.

**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.

**QUARRY**

A place, cavern, or pit where stone is taken from the rock or ledge, or dug from the earth, for building or other purposes; a stone pit.

**QUARRY OR OTHER NON-METALLIC MINING OPERATION**

All of the activities undertaken for the purpose of extracting from the earth, for sale or use by the operator or any person affiliated or related to the operator, or any person with whom the operator has a contractual relationship, mineral aggregates such as stone, sand and gravel, and other non-metallic minerals such as asbestos, beryl, clay, feldspar, peat, talc and topsoil, and all related activities and processes on the site, including, without limitation, stripping, drilling, shooting, excavating, dredging, grading, scalping, dewatering, crushing, screening, washing, blending, loading, hauling, stockpiling, and selling.

**QUARRY OR NON-METALLIC MINING REFUSE**

Waste soil, rock, mineral, liquid, vegetation, and other waste material resulting from a quarry or other non-metallic mining operation. This term does not include merchantable by-products resulting directly from or displaced by the quarry or other non-metallic mining operation, provided that the operator intends to market such by-products and the operation is active.

**QUARRY OR NON-METALLIC MINING SITE**

The location where a quarry or other non-metallic mining operation is proposed to be conducted or is conducted, including, without limitation, all areas where minerals are proposed to be or are removed, processed or stored, and all areas where are proposed to be or are disturbed or improved in connection with the operations (but not including public streets, highways, or other public improvements), and all setback areas surrounding the operations.

**QUARRYING**

The digging out of stone or slate from an open excavation.

**RAILROAD RIGHT OF WAY**

A strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

**REACH**

A longitudinal segment of a stream generally including those floodlands where in flood stages are primarily and commonly controlled by the same man-made or natural obstructions to flow.

**REAR YARD**

An open space, including driveways and parking areas, unoccupied other than by permitted accessory buildings or uses, extending from the rear building line of a principal building to the rear lot line, between the side building lines, projected to the rear lot line.



**RECLAMATION**

With respect to quarrying and non-metallic mining operations, "reclamation" means the rehabilitation of a quarry or other non-metallic mining site, including, but not necessarily including, and not limited to, removal of quarry or other non-metallic mining refuse, grading of the site, modification of sheer rock walls for purposes of safety and utility, replacement of topsoil, stabilization of soil and rock conditions, establishment of vegetative cover, landscaping, control of surface water and groundwater, prevention and remediation of environmental pollution, construction of fences, returning the site to a safe, useful, and aesthetically pleasing condition, and, if practical, restoration of plant, fish, and wildlife habitat.

**RECREATIONAL CAMP**

An area containing one (1) or more permanent buildings used occasionally or periodically for the accommodation of members or guests of associations or groups for recreational, educational or religious purposes.

**RECREATIONAL VEHICLE (RV)**

A vehicular type unit initially designed as a temporary living quarters for recreational, camping, or travel use, which either has its own motive power or mounted on or drawn by another vehicle. The basic types of recreational vehicles are:

- (1) Travel trailers. A vehicular unit, mounted on wheels, of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, initially designed and constructed to provide temporary living quarters for recreational, camping or travel use, and a body length of no more than thirty-five (35) feet and a body width of no more than eight (8) feet and six (6) inches when factory equipped for the road.
- (2) Truck camper. A portable unit, designed to be loaded onto or affixed to, the bed or chassis of a truck, constructed to provide temporary living quarters for recreational, camping or travel use.
- (3) Motor homes. A vehicular unit built on a self-propelled motor vehicle chassis, initially designed to provide temporary living quarters for recreational, camping or travel use.
- (4) Camping trailer. A vehicular unit mounted on wheels and constructed with collapsible partial sidewalls which fold for towing by another vehicle and unfolds at the campsite and is initially designed to provide temporary living quarters for recreational, camping or travel use.
- (5) Vans, buses, and other vehicles when equipped for camping purposes, designed to provide temporary living quarters for recreational, camping or travel use.

**RECREATIONAL VEHICLE (RV) PAD**

A location on an RV lot or campground site constructed of gravel, asphalt or concrete designed to provide proper drainage for placement of an RV and where possible, having amenities such as sewer, water and electrical connections.

**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 (1%) percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

**RENDERING PLANT**

A plant for reduction of dead animals, or slaughtered animals not suitable for human consumption, to by-products, such as hide, skin, grease, bones, glue and soap for the storage of such by-products.

**REPLACEMENT OF TOPSOIL**

The replacement of the topsoil which was removed and disturbed by a quarry or other non-metallic mining operation or the provision and placement of soil which is at least as adequate, in the opinion of the Village Administrator, as the topsoil which was removed or disturbed, for the purposes of providing adequate vegetative cover and stabilization of soil conditions.

**RESORT**

A hotel or motel that serves as a destination point for visitors. A resort generally provides recreational facilities for persons on vacation. A resort shall be self-contained and provide personal services customarily furnished at hotels, including the serving of meals.

**REST HOME**

An agency, organization or individual providing care for three (3) or more sick or aged persons not related by blood or marriage to the operator.

**RESTAURANT**

A public eating establishment in which the primary function is the preparation and serving of food on the premises.

**RESTAURANT WITH DRIVE-IN SERVICE**

An establishment designed, in whole or part, to cater to or accommodate the consumption of food and/or beverage in automobiles on the premises of such establishment.

**RESTRICTIVE COVENANT**

See "deed restriction."

**RETIREMENT HOME**

A building or institution for the accommodation of elderly persons, with or without nursing or medical care; provided that if such nursing or medical care is to be provided on a continuing basis for at least three (3) persons for not less than seventy-two (72) hours per week, such building or institution shall be classified as a nursing home. See also "Nursing Home" and "Home for the Aged".

**RIDING STABLE**

A building or premises used for the rent or lease of horses or animals for riding.

**RIDING STABLE (PRIVATE)**

A principal agricultural building and/or land use that is designed, arranged, used, or intended to be used for the keeping of equines for the private use of the occupants of a principal dwelling and their boarders and/or quests. Breeding, boarding, or training of equines may also be conducted. These facilities are not open to the public.

**RIDING STABLE (PUBLIC)**

A principal building and/or land use in or on which equines are kept for sale or hire to the public. Breeding, livery, boarding, riding lessons, or training of equines may also be conducted.

**RIGHT-OF-WAY LINE**

The dividing line between a highway and the abutting lots or other divisions of land.

**RINGELMANN CHART**

One which is described in the U. S. Bureau of Mines Information Circular 6888 or its successor, and on which are illustrated graduated shades of grey for use in estimating the light-obscuring capacity of smoke.

**RINGELMANN NUMBER**

The number appearing in the Ringelmann Chart ascribed by the observer to the density of the smoke emission. Where the density or light-obstructing capacity of the smoke as observed falls between two (2) consecutive Ringelmann Numbers, the lowest Ringelmann Number shall be considered the density of the smoke observed.

**ROUTINE MAINTENANCE OF VEGETATION**

Normally accepted horticultural practices that do not result in the loss of any layer of existing vegetation and do not require earth disturbance.

**ROW HOUSE**

One (1) of a group of three (3) or more houses sharing a common or party wall on one (1) or both side lot lines.

**SANITARIUM**

A health station or retreat--an institution for the recuperation and treatment of persons suffering from physical or mental disorders.

**SANITARY LANDFILL**

Sanitary landfill is a type of land disposal operation involving the disposal of solid waste on land without creating nuisances or hazards to public health or safety by utilizing the principals of engineering to confine the solid waste to the smallest practical area, to reduce it to the smallest practical volume, and to cover it with a layer of earth at the conclusion of each days operation or at such more frequent intervals as may be necessary.

**SCHOOL**

A place for systematic instruction in any branch or branches of knowledge.

**SECONDARY STREET YARD**

A yard normally not including the driveway access extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing street right-of-way line and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have one (1) primary street yard and one (1) secondary street yard.

**SEDIMENT**

Soils or other surficial materials transported by winds or surface waters as a product of erosion.

**SEPARATION DISTANCE**

The required distance between the outer boundary of a cluster group and another specified feature of the development.

**SERVICE STATION**

See "Gasoline Station".

**SETBACK**

The distance between a street line and the front building line of a principal building or structure, projected to the side lines of the lot, and including driveways and parking areas, except where otherwise restricted by this Ordinance.

**SHED**

A subordinate structure or building used primarily for storage purposes, of a height no greater than fifteen (15) feet and the total square footage of which does not exceed one hundred fifty (150) square feet.

**SHELTER, FALLOUT**

A structure or portion of a structure intended to provide protection to human life during periods of danger to human life from nuclear fallout, air raids, storms, or other emergencies.

**SHORE YARD**

A yard extending across the full width or depth of a lot, the depth of which shall be the minimum horizontal distance between a line intersecting both side lot lines at the same angle and containing the point of the ordinary high water mark of a pond, stream, lake or wetland nearest the principal structure and a line parallel thereto containing the point of the principal structure nearest the high-water line.

**SHORELAND SETBACK also known as the "Shoreland setback area"**

An area in a shoreland that is within a certain distance of the ordinary high-water mark in which the construction or placement of structures has been limited or prohibited under an ordinance enacted under §59.692, Wis. Stats.

**SHORELAND WETLAND DISTRICT**

Means a zoning district created as a part of a Village zoning ordinance, comprised of shorelands that are designated as wetlands on the Wisconsin wetland inventory maps prepared by the department.

**SHORELANDS**

All land, water and air located within the following distances from the ordinary high water mark of navigable waters as defined in §144.26(2)(d), Wis. Stats.: one thousand (1,000) feet from a lake, pond or flowage; three hundred (300) feet from a river or stream or to the landward side of the floodplain, whichever distance is greater. If the navigable water is a glacial pothole lake, the distance shall be measured from the high water mark thereof.

**SHORELINES**

The intersection of the land surfaces abutting lakes, ponds, streams, flowages and wetlands with the ordinary high water mark.

**SIDE YARD**

An open unoccupied space within the lot between a side lot line and the parts of the building, structure, or outbuilding nearest thereto. Such side yard shall extend on both sides of the lot through from the street line to the rear line of said lot.

**SIGN**

Any advertisement, announcement, direction, or communication produced in whole or in part by the construction, erection, affixing, or placing of a structure on any land or on any other structure, or produced by painting on or posting or placing any printed, lettered, pictured, figured, or colored material or impression on any building, structure, or surface. Signs placed or erected by governmental agencies or non-profit civic associations or public or private institutions for a public purpose in the public interest shall not be included herein, nor shall this include signs which are a part of the architectural design of a building.

**SIGN AREA**

The total square or rectangular area of space needed for advertising purposes, including the spaces between open-type letters and figures, including the background structure or other decoration or addition which is an integral part of the sign. Sign supports shall be excluded in determining the area of a sign. A double-faced sign shall have twice the total area of a single-faced sign.

**SIGN, AWNING**

A sign affixed to the surface of an awning provided that the sign does not extend vertically or horizontally beyond the limits of such awning.

**SIGN, BLADE**

A small, pedestrian-oriented sign that projects perpendicular from a structure or is hung beneath an awning or canopy.

**SIGN, BULLETIN BOARD**

Sign erected by a charitable, educational or religious institution, or a public body, which is erected upon the same property as said institution, for the purpose of notification to the public of an event or occurrence of public interest, such as a church service, political rally, civic meeting or other similar event.

**SIGN, BUSINESS**

A sign which directs attention to a business, product, service or activity conducted or sold on the premises where the sign is displayed.

**SIGN, CANOPY**

A sign affixed to the surface of a canopy provided that the sign does not extend vertically or horizontally beyond the limits of such canopy.

**SIGN, CHANGEABLE COPY**

A sign designed so that characters, letters, or illustrations can be changed or rearranged by mechanical, electronic or manual means without altering the face or surface of the sign. For the purpose of this Ordinance, a sign containing changeable copy shall not be considered a flashing sign.

**SIGN, DILAPIDATED**

A sign where elements of the display area or panel are visibly cracked, broken, or discolored, where the support structure or frame members are visibly corroded, bent, broken, torn, or dented, or where the message can no longer be read under normal viewing conditions.

**SIGN, FLASHING**

A sign that includes a message, image or any other component that intermittently flashes on and off or varies in intensity or color, with intermittent bursts of light, brightness, color or other feature of any kind which produces a visual flashing effect.

**SIGN, FREESTANDING**

A sign anchored directly to the ground or supported by one or more posts, columns, or other vertical structures or supports and not attached to or dependent for support from any building.

**SIGN, ILLUMINATED**

A sign designed to give forth any artificial light or reflect such light from an artificial source.

**SIGN, INFLATABLE**

A freestanding or moored sign or advertising medium expanded or inflated with air or another gas, such as, but not limited to, an air dancer or balloon, which may or may not rise and float above the ground and may or may not be imprinted with a product name or logo. Types of inflatables included within this definition are, but are not limited to: air dancers, air tubes, crazy tubes, tube dancers, dancing inflatables, giant inflatables, inflatable product replicas, rotatable inflatables, inflatable costumes, tethered balloons or blimps, or inflatable mascots, figures and characters.

**SIGN, MENU BOARD**

A freestanding sign displaying the type and price of food and beverages sold in connection with permitted outdoor dining, or a freestanding sign permanently affixed to the ground in connection with drive-through restaurant service.

**SIGN, MONUMENT**

A sign mounted on a solid-appearing decorative base or platform which supports a minimum of 75% of the horizontal dimension of the sign display and which encloses the structural members that support the

sign with brick, decorative masonry, natural or decorative stone or painted metal with the bottom of the sign face at or within a few feet of the base at grade.

**SIGN, OBSOLETE**

A sign which no longer correctly advertises a bona fide business, owner, landlord/tenant, product or activity conducted, or product available on the premises where the sign is displayed.

**SIGN, OFF-PREMISE (BILLBOARD)**

Any sign advertising goods, products or services not located or sold on the premises on which the sign is located.

**SIGN, ON-SITE INFORMATIONAL**

A sign which provides special information such as price, hours of operation, or parking regulations and information and which does not include brand names, or information regarding product lines or services. It may contain a business logo if the logo is under one square foot in area. Examples of such signs include: signs that give direction regarding parking and traffic, such as "enter" or "exit" or "employee parking" or "customer parking" or "do not enter" or signs that direct traffic to a specific area such as "drive-through".

**SIGN, PORTABLE**

Any sign not permanently attached to the ground, a building, or other immovable object. Such sign shall include any sign attached to, or displayed on, a vehicle that is used for the expressed purpose of advertising a business establishment, product, service or entertainment, when that vehicle is parked adjacent to the public right-of-way and/or in a manner as to attract attention of motoring or pedestrian traffic.

**SIGN, PROJECTING**

Any sign that is attached in a plane approximately perpendicular to the surface of a building or other structure

**SIGN, REAL ESTATE**

A sign pertaining to the sale or lease of the lot or tract of land on which the sign is located or to the sale or lease of one (1) or more structures or a portion thereof located on such lot or tract of land.

**SIGN REFACING**

Repainting or replacing the advertising surface of a sign without moving, reconstructing, extending, enlarging, converting or making structural changes to the sign.

**SIGN, ROOF**

A sign erected, constructed or maintained on the roof of a building or structure above the eaves, or above mansards, parapets, or other similar architectural features of buildings or structures which are capable of supporting signs.

**SIGN, SUSPENDED**

A sign that is suspended from the underside of a horizontal plane surface and is supported by such surface.

**SIGN, UNIFIED BUSINESS CENTER**

A monument sign which identifies multiple tenants located on multiple parcels within a commercial development or business/industrial park.

**SIGN, WALL**

Any sign attached to, erected on or painted on the wall of a building or structure, with the exposed face of the sign in a plane approximately parallel to and projecting not more than twelve (12) inches from the face of the wall. Wall-mounted signs shall not extend above the top of the parapet wall (if one exists) or soffit-fascia line (if one exists) of a building. A wall sign may be of either one-piece construction or of individual connected or related letters or symbols. The sides of architectural projections do not constitute a wall per this definition.

**SIGN, WINDOW**

Any permanent or temporary sign, including any decal or graphic, that is legible from the outside, including plazas, public streets, and parking lots, and that is placed on the inside face of a window or mounted within two feet of the inside face of the window.

**SILT**

Soil particles, intermediate in size between sand and clay, which are readily transported by inflowing streams or surface waters into a body of water.

**SITE**

See "lot".

**SLAUGHTERHOUSE**

Any building or premise used for the killing or dressing of cattle, sheep, swine, goats, horses, or poultry and the storage, freezing and curing of meat and preparation of meat products.

**SLOW BURNING OR INCOMBUSTIBLE**

Implies materials which do not in themselves constitute an active fuel for the spread of combustion. A material which will not ignite, nor actively support combustion during an exposure for five (5) minutes to a temperature of one thousand two hundred (1200°) degrees Fahrenheit, shall be designated "incombustible".

**SMOKE**

Small gasborne particles other than water that form a visible plume in the air.

**SMOKE UNIT**

The number obtained when the smoke density in Ringelmann Number is multiplied by the time of emission in minutes. For the purpose of this calculation, a Ringelmann density reading shall be made at least once a minute during the period of observation; each reading is then multiplied by the time in minutes during which it was observed. The various products are then added together to give the total number of smoke units observed during the entire observation period.

**SOIL**

Any earth, sand, gravel, rock or any similar material.



**SOLID WASTE**

Garbage, refuse and all other discarded or salvageable solid materials, including solid waste materials resulting from industrial, commercial, and agricultural operations and from domestic use and public service activities, but does not include solids or dissolved material and waste water effluent or other common water pollutants.

**SOUND LEVEL**

An operation or use is the intensity of sound, measured in decibels, produced by such operation or use.

**SOUND LEVEL METER**

An instrument standardized by the American Standards Association for measurement of intensity of sound.

**SPECIAL EXCEPTION**

See "conditional use".

**START COMMENCEMENT**

The doing of some act upon the ground on which the building is to be erected, and in pursuance of a design to erect, the result of which act would make known to a person viewing the premises, from observation alone, that the erection of a structure on that land had been commenced.

**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 the time limits as specified in Section ZN 2.02(3). 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 pilings, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction also includes land preparation, such as clearing, grading and filling. 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 or not that alteration affects the external dimensions of the building.

**STEEP SLOPE**

A slope over twelve (12%) percent grade, which is characterized by increased run-off, erosion and sediment hazards.

**STORAGE**

Holding or safekeeping goods in a warehouse or other depository to await the happening of some future event or contingency which will call for the removal of the goods.

**STORAGE CAPACITY**

The volume of space available above a given cross-section of a floodplain for the temporary storage of flood water. The storage capacity will vary with stage.

**STORE**

A use devoted exclusively to the retail sale of a commodity or commodities.

**STORY**

That portion of a building included between a floor and the floor or roof next above it. A basement is not to be counted as a story unless the ceiling height exceeds four feet above the grade or unless more than forty (40%) percent of the basement is for living purposes.

**STORY-HALF**

A story which is situated in a sloping roof, the floor area of which does not exceed two-thirds (2/3) of the floor area of the story immediately below it, and which does not contain an independent dwelling unit.

**STREET**

A public thoroughfare, avenue, road, highway, boulevard, parkway, way, drive, lane, court or private easement providing, generally, the primary roadway to and egress from the property abutting along its length.

**STREET, ARTERIAL**

A public street or highway used or intended to be used primarily for fast or heavy through traffic. Arterial streets and highways shall include freeways and expressways, as well as arterial streets, highways and parkways.

**STREET LINE**

A dividing line between a lot and a street right-of-way.

**STREET YARD**

A yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing right-of-way line and a line parallel thereto through the nearest point of the principal structure. Through lots (double frontage lots) shall have two (2) such yards.

**STREET YARD, PRIMARY**

See "Primary Street Yard."

**STREET YARD, SECONDARY**

See "Secondary Street Yard."

**STRIPPING**

Any activity which removes the vegetated surface cover, including tree removal, clearing, rubbing and storage or removal of topsoil.

**STRUCTURAL ALTERATIONS**

Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any substantial change in the roof or in the exterior walls.

**STRUCTURAL REPAIRS**

Any repair to the supporting members of a structure, such as bearing walls, columns, beams or girders. Ordinary maintenance repairs such as interior or exterior painting, decorating, paneling, replacing doors and windows, and replacing roof tiles or shingles are not considered structural repairs.

**STRUCTURALLY ALTERED**

The making of such a substantial change in the construction, identity, and use of the present building.

**STRUCTURE**

Any production or piece of work, artificially built up or composed of parts and joined together in some definite manner and form. Structures may include, but are not limited to, a principal structure or any accessory structure or a garage, shed, boathouse, sidewalk, walkway, patio, deck, retaining wall, porch or firepit.

**STRUCTURE, MINOR**

Any small, movable accessory erection or construction, such as birdhouses; tool houses; play equipment arbors and walls and fences under four (4) feet in height meeting all street, sides, rear and shore yard setback requirements.

**STRUCTURE TEMPORARY**

A movable structure not designed for human occupancy nor for the protection of goods or chattels and not forming an enclosure.

**SUBDIVISION**

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

**SUBDIVISION ROAD**

A Village road or other officially approved means of access providing primary access to interior lots located within a subdivision as defined in Chapter 18 of the Village Ordinances.

**SUB-LOT**

A subordinate and integral part of a lot which lot is identified on a subdivision recorded in the maps and plats records of the Kenosha Village Register of Deeds.

**SUBSTANTIAL DAMAGE**

Damage sustained by a structure whereby the cost of repairing or restoring the structure to its pre-damaged condition, which over the life of the structure, would equal or exceed fifty (50%) percent of the equalized assessed value at the time the structure became non-conforming.

**SUBSTANTIAL IMPROVEMENT**

Any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds fifty (50%) percent of the equalized assessed value at the time the structure became non-conforming. If the structure has sustained substantial damage, any repairs are considered substantial improvement regardless of the work performed. The term does not, however, include either any project for the improvement of a building required to correct existing health, sanitary or safety code violations identified by the building official and that are the minimum necessary to assure safe living conditions; or any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

**SWIMMING POOL**

Any structure, portable or permanent, containing a body of water eighteen (18) inches or more in depth, intended for recreational purposes, including a wading pool, but not including an ornamental reflecting pool or fish pond or similar type pool, located and designed so as not to create a hazard or to be used for swimming or wading.

**TEMPORARY USE**

A use of land, buildings or structures not intended to be of permanent duration and not located on a parcel for more than twelve (12) months.

**THEATER**

A structure used for dramatic, operatic, motion pictures, or other performance, for admission to which entrance money is received and no audience participation or meal service allowed.

**TOWN HOUSE**

A building that has one-family dwelling units erected in a row as a single building on adjoining lots, each being separated from the adjoining unit or units by a party wall or walls extending from the basement floor to the roof along the dividing lot line, and each such building being separated from any other building by space on all sides.

**TOXIC MATTER**

Those materials which are capable of causing injury to living organisms by chemical means when present in relatively small amounts.

**TRAFFIC LANE**

A strip of roadway intended to accommodate a single line of moving vehicles.

**TRANSIENT**

A person who travels to a location away from his or her permanent address for a short period of time for vacation, pleasure, recreation, culture, business or employment.

**TRUCK FARMING**

A farm devoted to the production of vegetables for the market.

**TURNING LANES**

An existing or proposed connecting roadway between two (2) arterial streets or between an arterial street and any other street. Turning lanes include grade separated interchange ramps.

**UNNECESSARY HARDSHIP**

The circumstance where special conditions, which were not self-created, affect a particular property and make strict conformity with restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purposes of this Ordinance. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.

**UNOBSTRUCTED OPEN SPACE**

Land not covered by buildings or structures.

**USE**

(a) Any purpose for which a building or other structure or a tract of land may be designed, arranged, intended, maintained, or occupied, or (b) any activity, occupation, business, or operation carried on, or intended to be carried on, in a building or other structure or on a tract of land.

**USE PRIVATE**

One which is restricted to the occupants of a lot or building, together with their guests, where compensation for such use is not received and where no business or commercial activity is associated with such use or building.

**USED CAR LOT**

A lot or group of contiguous lots, used for the display and sale of used automobiles and where no repair work is done, except the necessary reconditioning of the cars to be displayed and sold on the premises.

**VARIANCE**

An authorization granted by the Zoning Board of Adjustments to construct or alter a building or structure in a manner that deviates from the dimensional standards of this Ordinance. A variance may not permit the use of a property that is otherwise prohibited by the Ordinance or allow floodland construction that is not protected to the flood protection elevation.

**VEGETATIVE BUFFER**

An area of dense vegetation intended to slow runoff and trap sediment. Vegetative Buffers are commonly referred to as filter or buffer strips. See Vegetative Buffer for Construction Sites (1054) Wisconsin Department of Natural Resources Conservation Practice Standard.

**VIDEO**

A recording of moving visual images.

**VIOLATION**

The failure of a structure or other development to be fully compliant with the provisions of this or any other Village Ordinance. 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.

**WAREHOUSE**

A structure or part of a structure, for storing goods, wares, and merchandise, whether for the owner or for others, and whether it is a public or private warehouse.

**WAREHOUSING**

Establishments used generally for large scale dead storage of goods and wares. A general warehouse may or may not include maintenance facilities for shipping vehicles.

**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.

**WATERSHED**

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

**WELL**

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

**WETLANDS**

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

**WHOLESALE TRADE**

Establishments or places of business primarily engaged in selling merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, or selling merchandise to, such individuals or companies.

**WIDTH**

A dimension measured from side to side at right angles to length.

**WRECKING, JUNK, DEMOLITION AND SCRAP YARD**

See "Junk Yard".

**YARD**

An open space, other than a court, on the same lot with a building, unoccupied and unobstructed from the ground upward.

**ZONE**

An area within which certain uses of land and buildings are permitted and certain others are prohibited, yards and other open spaces are required, lot areas, building height limits, and other requirements are established, all of the foregoing being identical for the zone in which they apply.