

CHAPTER 1 GENERAL GOVERNMENT

1.01 ELECTED OFFICIALS	1
1.02 APPOINTED OFFICIALS	1
1.025 CONTRACTS FOR PROFESSIONAL SERVICES	4
1.03 BOARDS AND COMMISSIONS.....	4
1.04 MUNICIPAL COURT	8
1.05 GENERAL REGULATIONS GOVERNING ALL VILLAGE OFFICERS.....	9
1.06 ELECTIONS.....	9
1.07 VILLAGE BOARD MEETINGS.....	10
1.075 COMMITTEES	12
1.08 PUBLIC RECORDS.....	13
1.09 PROCESSING FEES, INTEREST	30
1.10 AUTHORITY TO ISSUE CITATIONS.....	30

1.01 ELECTED OFFICIALS.

(1) **VILLAGE PRESIDENT.** The Village President shall be elected at the regular spring election in odd-numbered years for a term of 2 years commencing on the 3rd Tuesday of April in the year of his election.

(2) **TRUSTEES.** There shall be 6 Village Trustees. Three Trustees shall be elected at each annual spring election for 2 year terms, commencing on the third Tuesday of April in the year of their election.

(3) **MUNICIPAL JUDGE.** The Village Municipal Judge shall be elected at the regular spring election for a term of 4 years commencing on May 1 following his or her election.
[Am. 11-20, Eff. 6-17-11]

1.02 APPOINTED OFFICIALS.

(1) **VILLAGE ADMINISTRATOR.** (a) Appointment. The Village Administrator shall be appointed by a majority vote of the members of the Village Board. The Administrator shall hold his office for an indefinite term and shall serve at the pleasure of the Village Board.

[Cr.03-18, Eff. 4-21-03; Am. 10-03, Eff. 1-18-10; Repl. 21-31, Eff. 11-27-21].

(b) Powers and Duties. The Village Administrator shall be responsible for:

1. planning, organizing, coordinating and directing the activities and functions of the Village;
2. directing and coordinating the activities of all Village Departments;
3. acting as personnel officer, with the authority to hire, promote, supervise, discipline and terminate any Village employee. It shall be the responsibility of the Village Administrator to impose discipline, up to and including dismissal, on employees of the Village when, in the discretion of the Village Administrator, such action is in the best interest

of the Village, subject to the right of an aggrieved employee to appeal to the Village Board;

4. appointing and removing the Village Clerk and filling any vacancy in the office of the Clerk;
5. informing the Village President and the Village Board, on a regular basis, of the activities of all Village Departments;
6. maintaining liaison with the Village Attorney, engineering consultants, assessors and other contractual officials;
8. performing all other duties as directed by the Village President and the Village Board from time to time.

[Am. Charter Ordinance No. 2, Eff. 8-22-94; Am. 07-11, Eff 04-17-07; Am. Charter Ordinance No. 5, Eff. 5-1-04; Am. Charter Ordinance No. 6, Eff. 4-12-2010; Am. 21-31. Eff. 11-27-21]

(c) Salary. The salary of the Village Administrator shall be fixed from time to time by the Village Board.

(d) Deputy Administrator. The Village Administrator may designate any appointed Village officer or employee as a Deputy Administrator. Any person so appointed shall, during the temporary absence or disability of the Village Administrator, perform the duties of the Village Administrator, except that a Deputy Administrator shall not have the power of the Administrator to hire, make appointments, terminate, discipline or establish compensation for, any employee without approval from the Village Board.
[Cr. 12-33, Eff. 12-18-12]

(2) VILLAGE CLERK. (a) The Village Clerk shall be appointed by the Village Administrator and shall hold office for an indefinite term, subject to removal by the Administrator. Removal of the Clerk shall, following the completion of any probationary period established by the Administrator at the time of appointment, be only for just cause. The Clerk shall have all the powers and duties set forth in §61.25 of the Wisconsin Statutes, and such further duties as shall be assigned by the Village Board or the Village Administrator from time to time.

(b) The Village Clerk may appoint a Deputy Clerk, subject to approval of the Village Administrator. A Deputy Clerk so appointed shall act under the direction of the Clerk and, during the temporary absence or disability of the Clerk, shall perform the duties of the Clerk.
[Recr. 12-33, Eff. 12-18-12]

(3) VILLAGE FINANCE DIRECTOR. (a) The Village Finance Director shall, by virtue of his or her office, be the Village Treasurer. The Finance Director shall be appointed by the Village Board and shall hold office for an indefinite term, subject to removal by the Board as provided in §17.13(1), Wis. Stats.. The Finance Director shall have all the powers and duties set forth for village treasurers in §§61.26 and 61.261, Wis. Stats., and such further duties as shall be assigned by the Village Board from time to time. The Village Board may fill any vacancy in the office of Finance Director on an interim basis until a permanent replacement shall be selected and qualified.
[Cr. Cr. Charter Ordinance No. 5, Eff. 5-1-04; Am.; Charter Ordinance No. 6, Eff. 4-12-2010; Am. 21-31, Eff. 11/27/21]

(b) The Village Finance Director may, subject to approval of the Village Administrator, file in the office of the Clerk, appoint a Deputy Treasurer who shall act under the direction of the Finance Director and who, during the temporary absence or disability of the Finance Director, shall perform the duties of the Finance Director. Any Deputy Treasurer so appointed may, if determined appropriate by the Village Administrator, be designated as an Assistant Finance Director. The acts of the Deputy Treasurer shall be covered by an official bond, unless otherwise determined by the Village Board by ordinance.

[Recr. 12-33, Eff. 12-18-12]

(4) CHIEF OF POLICE. (a) Appointment and Term. The Chief of Police shall be appointed by the DeForest Board of Police Commissioners. Subject to all statutory procedures and requirements, the Chief shall serve for an indefinite term subject to removal by the DeForest Board of Police Commissioners for cause.

[Am. 00-56, Eff. 11-6-00; Am. 03-01, Eff. 1-20-03]

(b) Residency Required. The Chief shall establish permanent residency within fifteen (15) miles of the boundaries of the Village not later than six (6) months following the completion of the applicable probationary period. In the event that Chief shall fail to establish such residency, or shall thereafter cease to reside in the required area, his or her office shall be automatically forthwith vacated and such vacancy shall be filled as provided by law for the making of the original appointment, provided, however, that residency once established shall not be affected by a subsequent change in the Village boundaries. The Village Board may extend the period for establishing such residency to a date certain by a 2/3 vote.

[Cr. 03-01, Eff. 1-20-03; Am. 9-24-2003; Am. 21-31, Eff. 11/27/21]

(5) FIRE CHIEF AND FIRE INSPECTOR. See §§5.03 and 5.07 of this Code.
[Am. 14-01, Eff. 1-17-14]

(6) ASSESSOR. The Assessor shall be appointed by a majority of the Village Board for an indefinite term.

[Am. 97-4, Eff. 2-17-97]

(7) VILLAGE ATTORNEY. The Village Attorney shall be appointed by a majority vote of the Village Board for an indefinite term.

[Am. 97-4, Eff. 2-17-97]

(8) BUILDING INSPECTOR. The Building Inspector shall be appointed by a majority vote of the Village Board for an indefinite term. The Building Inspector shall also act as plumbing inspector and electrical inspector.

[Am. 97-4, Eff. 2-17-97]

(9) WEED COMMISSIONER. The Village Weed Commissioner shall be appointed in April each year by the Village President, subject to confirmation by the Village Board, for a term of one year commencing on May 1 following his or her respective appointment. The Weed Commissioner shall have all of the powers and duties provided by §66.0517, Wis. Stats.

[Am. 21-31, Eff. 11/27/21]

(10) FORESTER. The Village Forester shall be appointed by a majority vote of the Village Board for an indefinite term. The Forester shall be responsible for administration of the urban forestry regulations as set forth in §7.02 and subchapter II of Chapter 16 of this Code.

[Cr. 10-01, Eff. 1-04-10]

(11) ZONING ADMINISTRATOR. The Village Administrator is authorized to appoint an employee as the Village Zoning Administrator, who shall be responsible for the administration of the Village's Zoning, Floodplain Zoning and Shoreland-Wetland Zoning Codes, and shall have all of the powers and duties as delegated to the Zoning Administrator by those Codes or by any other ordinance.

[Cr. 2019-017, Eff. 8-21-2019]

1.025 CONTRACTS FOR PROFESSIONAL SERVICES. Appointments to the offices of Village Assessor, Village Attorney, Building Inspector and/or Weed Commissioner may be made in the form of contracts with one or more independent firms, including partnerships or corporations, regularly engaged in the performance of professional services attendant to such offices. Such appointments shall designate one member of such firm as the appointed officer who shall be responsible for the supervision and direction of such other members of the firm, designated as assistant officers, performing professional services on behalf of the Village. The provisions of sec. 1.05 of this code shall not apply to appointments made under this section unless otherwise required by law or by the Village Board.

[Am. 97-4, Eff. 2-17-97]

1.03 BOARDS AND COMMISSIONS.

(1) BOARD OF REVIEW. (a) Membership. The Board of Review shall consist of the Village President, two members of the Village Board and two citizen members as appointed by the Village President. The assessor hired or contracted by the Village shall attend all meetings of the Board. The Village Clerk shall serve as the clerk to the Board of Review.

[Am. 95-25, Eff. 06-05-95; Am. 21-31, Eff. 11/27/21]

(b) Powers and Duties. The Board of Review shall have the power and duties prescribed in §70.47, *Wis. Stats.*

(2) PLANNING AND ZONING COMMISSION. (a) Membership.

1. *Composition.* The Planning and Zoning Commission shall consist of 7 members. All members shall, at all times, be residents of the Village.

2. *Appointment, Qualifications and Term.* Appointments to the Commission shall be made by the Village President, subject to confirmation by the Village Board. No member of the Commission shall be an officer of the Village, except that at least one, but not more than two, Village trustees shall be members at all times. One trustee shall serve as chairperson of the commission as designated at the time of appointment. The term of office for citizen members shall be 3 years and for trustee member(s), 2 years, except that the position held by any trustee member shall be deemed vacant if such member ceases to be a member of the Village Board.

[Am. 21-31, Eff. 11/27/21]

3. *Alternate Members.* In addition to the regular membership, the Village President may appoint up to two (2) alternate members to the Commission, designated at the time of appointment as a first and second alternate. Alternate members shall not be officers, of the Village. The first alternate shall

act, with full power, only when a member of the Commission refuses to vote because of interest or when a member is absent. The second alternate shall so act only when the first alternate so refuses or is absent or when more than one member of the Commission so refuses or is absent. Alternate members shall serve for a term of three (3) years.

[Am. 99-25, Eff. 4-26-99; Am. 16-51, Eff. 12-21-16]

(b) Powers and Duties. The Planning & Zoning Commission shall have the powers and duties prescribed in §62.23, *Wis. Stats.* and all other statutes prescribing the powers and duties of plan commissions.

[Am. 94-8, Eff. 02-21-94; 94-9, Eff. 03-07-94; Am. 14-4, Adopted 2-4-14; Am. 21-31, Eff. 11/27/21]

(3) BOARD OF ZONING APPEALS. (a) Membership. The Board of Zoning Appeals shall consist of 5 citizens of the Village, not more than one of whom may be a member of the Village Board. In addition, there shall be 2 alternate citizen members, designated as the first or second alternate at the time of appointment, who shall act with full power only when a member of the Board is absent or refuses to vote because of interest as provided in §62.23(7)(e) *Wis. Stats.* Members and alternates shall be appointed by the Village President to 3 year terms, subject to confirmation by the Village Board.

[Repl. and Recr. 95-39, Eff. 9-5-95]

(b) Powers and Duties. The Board of Zoning Appeals shall have the powers and duties described in sec. 15.03 of this Code.

[Am. 93-8, Eff. 03-01-93]

(4) DEFOREST LIBRARY BOARD. (a) Membership. The DeForest Library Board shall consist of seven (7) members at least five (5) of whom shall be residents of the Village. Not more than two (2) members may be residents of another municipality. One of such seven members shall be the administrator of the DeForest Area School District or the administrator's designated representative. Not more than one member of the Village Board shall be a member of the Library Board at any time. All members shall be appointed by the Village President for a three-year term subject to confirmation by the Village Board.

[Am. 01-53, Eff. 12-3-01]

(b) Powers and Duties. The Library Board shall have the powers and duties prescribed in 43.58, *Wis. Stats.*

(5) DEFOREST SEWER UTILITY COMMISSION AND DEFOREST WATER UTILITY COMMISSION. The Village Board shall constitute the DeForest Sewer Utility Commission and DeForest Water Utility Commission, respectively.

(6) PUBLIC SAFETY & SECURITY COMMISSION.
[Cr. 23-12, Eff.]

(a) Composition . The Public Safety & Security Commission shall consist of the following members:

Two Village Trustees
The Chief of Police
The Fire Chief
Three Village residents who are not officers of the Village

(b) Appointment and Term. The resident members and Trustee members shall be appointed by the Village President and confirmed by the Village Board. Resident members shall serve a two-year term commencing on May 1 of each odd numbered year. The term of the Trustee members shall extend from the time of appointment through the remainder of their terms as Village Trustees. The Village President shall designate one Trustee member as the Chairperson of the Commission on an annual basis.

(c) Powers and Duties. The Commission shall:

1. Advise the Emergency Management Coordinator appointed under §6.03 and the Village Board on all matters pertaining to emergency preparedness and provide for establishment of operating procedures which will ensure the Village's readiness to address public emergencies as provided in Chapter 6.
2. Review at least annually the Village's disaster response procedures and participate in exercises to test their effectiveness.
3. Conduct after-action reviews whenever the Village emergency operations center has been activated.
4. Render decisions on applications for the issuance or renewal, and on complaints for the suspension or revocation, of alcohol beverage licenses as provided in §9.07.
5. Consider and make recommendations to the Village Board with respect to traffic safety and other public safety issues affecting the Village.

(d) Meetings. The Commission shall meet at least six times in each calendar year. Additional meetings shall be held when called by the Chair or upon the request of any two commissioners.

(7) COMMUNITY DEVELOPMENT AUTHORITY.

(a) General. The Community Development Authority of the Village of DeForest is a separate body politic for the purpose of carrying out blight elimination, slum clearance, urban renewal programs and projects and housing projects created pursuant to §66.1335(1), Wis. Stats.

(b) Membership. The Authority shall be comprised of seven (7) commissioners having sufficient ability and experience in the fields of urban renewal, community development and housing who shall be appointed by the Village President with confirmation by the Village Board. The terms of office for commissioners shall be as follows:

1. Two (2) of the commissioners shall be members of the Village Board and shall serve during their term of office as Village Trustees.
2. Commissioners appointed in 2020 shall serve for terms of one, two, three or four years as designated at the time of their appointment.

3. Commissioners appointed following the expiration of any initial terms established under subparagraph 2 shall serve for terms of four (4) years and shall continue thereafter until their successors are appointed and qualified.
 - (c) Vacancies. Vacancies in the office of commissioner shall be filled for the unexpired term as in the same manner as regular appointments are made.
 - (d) Powers and duties. The Authority shall:
 1. have all powers, duties and functions set out in §§66.1201 and 66.1333, Wis. Stats. for Housing Authorities and Redevelopment Authorities. As to all housing projects initiated by the Authority it shall proceed under §66.1201, Wis. Stats. As to all projects relating to blight elimination, slum clearance, urban renewal and redevelopment programs, it shall proceed under §§66.1105, 66.1301 to 66.1329, 66.1331, 66.1333 or 66.1337, Wis. Stats. as determined appropriate by the Village Board on a project-by-project basis.
 2. Act as the agent of the Village in planning and carrying out community development programs and activities approved by the Village Board under the Federal Housing and Community Development Act of 1974. As to all community development programs and activities undertaken by the Village under the Federal Housing and Community Development Act of 1974, the Authority shall proceed under all applicable laws and ordinances not inconsistent with the laws of this State.
 3. The Authority shall act as agent of the Village to perform all acts, except the development of the general plan of the Village, which may be otherwise performed by the Planning & Zoning Commission under §§66.1301 to 66.1329, 66.1331 or 66.1337, Wis. Stats.
- (e) Compensation. Commissioners shall be reimbursed their actual and necessary expenses including local travel expenses incurred in the discharge of their duties. Compensation for commissioner attendance at meetings shall be as established for other boards and commissions by the Village Board from time to time.

[Sub. (7) Rep. & Recr. 20-10; Eff. 9-1-20; Repl & Repl 21-31, Eff. 11/27/21]

(8) ADMINISTRATIVE REVIEW APPEALS BOARD. (a) Membership. The Administrative Review Appeals Board shall consist of the Village President, a Trustee and one citizen member. The Trustee member shall be appointed annually by the Village President, subject to confirmation by the Village Board. The citizen member shall be appointed by the Village President, subject to confirmation by the Village Board, for a 3 year term.

(b) Powers and Duties. See sec. 17.05(2) of this Code.

(9) BOARD OF POLICE COMMISSIONERS.

(a) Membership. The membership of the DeForest Board of Police Commissioners shall consist of five (5) citizen members, individually appointed by the Village President and confirmed by the Village Board as provided herein.

(b) Appointment and Term. Commissioners shall serve staggered terms of five years commencing on May 1 in the year of appointment. Between the last Monday of April and the first Monday of May in each year, the Village President shall appoint one commissioner to succeed the member whose term expires in that year. Such appointments shall be filed with the Secretary of the DeForest Board of Police Commissioners and shall be submitted to the Village Board, and shall be subject to confirmation by the Village Board by majority vote. A commissioner shall continue to serve until his or her successor is appointed and qualified. No appointment shall be made which will result in more than three (3) members of the board belonging to the same political party.

(c) Officers. The Board of Police Commissioners shall adopt rules or bylaws providing for the selection of a President and Secretary from among its membership and such other officers as the Board shall deem appropriate. The rules or bylaws shall provide that the Secretary shall continue in such office until a successor is appointed and qualified. The Secretary shall keep a record of all of the Board's proceedings and shall be the custodian of all records of the Board.

(d) Powers and Duties. The Board Of Police Commissioners shall have and exercise all powers granted to, and perform all the duties required of, such boards under the Wisconsin statutes, including but not limited to those powers and duties specified in §§61.65 and 62.13(1) through (5), *Wis. Stats.*, as are applicable to villages.

(e) Internal Procedures: The Board of Police Commissioners may establish procedures for its internal operation and conduct of its proceeding, provided such procedures are not inconsistent with any applicable laws, rules, or regulations contained within the state and federal constitutions, Wisconsin State Statutes or the Village Ordinances, as amended from time to time. Any three members shall constitute a quorum.
[Am. and Codified 03-04, Eff. 2-3-03]

1.04 MUNICIPAL COURT.

(1) CREATION. Pursuant to §254.01, 1967 *Wis. Stats.*, the Village Board created the Municipal Court for the Village of DeForest and provided for the election of a Municipal Judge. (See §755.01, *Wis. Stats.*)

(2) JURISDICTION. The Municipal Court shall have such jurisdiction as provided by §755.045, *Wis. Stats.*

(3) PROCEDURE.

(a) The Municipal Court shall be open as determined by the Municipal Judge.

(b) The Municipal Judge shall hold court in the Public Safety Building or at such other place as the Village Board shall determine from time to time.

(c) The procedure in Municipal Court shall be as provided in this section and state law including, but not excluding because of enumeration, Chs. 48, 755, 800 and 801, *Wis. Stats.*

(d) The Municipal Judge shall collect all forfeitures and taxable costs in all actions before him as provided by law and shall pay over all such moneys to the Village Finance Director not later than the second business day after the receipt thereof.
[Am. 21-31, Eff. 11/27/21]

(4) MUNICIPAL JUDGE, SALARY AND OATH.

(a) Salary. The Municipal Judge shall receive a salary as determined from time to time by the Village Board which shall be in lieu of fees and costs. No salary shall be paid to the Municipal Judge for any time during his term for which he has not executed and filed his official bond and oath as required by §755.03, *Wis. Stats.*

(b) Bond, Oath. The Municipal Judge shall execute and file with the Clerk of the Circuit Court for Dane County the oath prescribed by §755.03, *Wis. Stats.*, and a bond in the penal use of \$1,000.

(5) The municipal judge may impose a forfeiture of not more than \$200 and/or imprisonment for not more than 7 days for contempt of court as provided under §800.12, *Wis. Stats.*

[Cr. 94-34, Eff. 08-01-94; Am. 11-20, Eff 6-17-11]

1.05 GENERAL REGULATIONS GOVERNING ALL VILLAGE OFFICERS.

(1) **EFFECT.** The provisions of this section shall apply to all officers of the Village regardless of the time of creation of the office or selection of the officer unless otherwise specifically provided by ordinance or resolution of the Village Board.

(2) **OATH OF OFFICE.** Every officer of the Village, including members of Village boards and commissions, shall, before entering upon the duties of the office and within 5 days of election or appointment or notice thereof, take the oath of office prescribed by law and file said oath in the office of the Village Clerk. Any person reelected or reappointed to the same office shall take and file an official oath for each term of service.
[Am. 21-31, Eff. 11/27/21]

(3) **COMMENCEMENT OF TERMS OF OFFICE.** The terms of all Village officers appointed to a definite term shall commence on May 1 following the appointment.

(4) **BOND.** Every officer shall, if required by law or the Village Board, upon entering upon the duties of the office, give a bond in such amount as may be determined by the Village Board with such sureties as are approved by the Village President, conditioned upon the faithful performance of the duties of the office.
Am. 21-31, Eff. 11/27/21

1.06 ELECTIONS.

(1) **POLLING PLACE; HOURS.** There shall be two polling place in the Village which shall be located in the DeForest Area Public Library located at 203 Library Street and in DeForest Village Hall located at 120 South Stevenson Street. The polls shall be open from 7:00 A.M. to 8:00 P.M. on all election days.
[Am. 97-34, Eff. 10-20-97; Am. 16-01, Eff. 01-06-16; Am. 16-47, Eff. 12-21-16]

(2) REDUCTION OF NUMBER OF ELECTION OFFICIALS. Pursuant to §7.32, *Wis. Stats.*, the Village Clerk may reduce the number of election officials for any given election to no less than 5 and redistribute the duties of such remaining election officials.
[Am. 21-31, Eff. 11/27/21]

(3) SCHEDULING. Pursuant to sec. 7.30(1) of the Wisconsin Statutes, the Village Clerk or his or her designee may establish different working hours for different election officials assigned to the same polling place. Alternate officials may be appointed by the Board in a number sufficient to maintain adequate staffing of the polling place(s) as it may determine from time to time.

[Sub. (3) Cr. 02-33, Eff. 9-3-02]

1.07 VILLAGE BOARD MEETINGS.

(1) MEETINGS. (a) Regular Meetings. The Village Board shall hold a regular meeting on the first and third Tuesdays of each month at 6:00 p.m. and shall adjourn no later than 11:00 p.m. unless such time is extended by a majority vote of the Board. When a regular meeting date falls on a legal holiday or on a day an election is being held in the Village, the meeting shall be held on the next succeeding secular day unless another date is selected by the Board by majority vote. The date or time of any other regular meeting may be changed by a two-thirds vote of the Board at any prior meeting which is not less than 28 days prior to the date and time to be established for the subsequent meeting.

[Am. 93-36, Eff. 10-93; Am. 00-33, Eff. 8-4-00; Am. 02-27, Eff 2-1-2003; Am. 10-02, Eff. 1-21-10; Am. 10-34; Eff. 1-1-11]

(b) Special Meetings. Special meetings of the Board may be called by the Village President or by 2 Trustees by filing a written request with the Village Clerk at least 32 hours prior to the time specified for such meeting. The Village Clerk shall immediately post a notice of the meeting together with the agenda and seasonably notify each Trustee of the time and purpose of such meeting.

[Am. 21-31, Eff. 11/27/21]

(c) Place of Meetings. All meetings of the Board, including special and adjourned meetings, shall be held in the DeForest Village Hall unless specified by the Board at a previous regular meeting or by written notice posted at the regular meeting place at least 24 hours (two hours in an emergency) prior to any meeting. In any event, all board meetings shall be held within the boundaries of the Village. Notwithstanding the foregoing, the Village Board may conduct meetings by videoconferencing or similar technology when determined appropriate for health or safety reasons, provided that adequate access to such meeting is provided to the public.

[Am. 02-27, Eff. 7-4-02; Am. 12-15-2003; Am. 21-31, Eff. 11/27/21]

(d) Quorum. Four Trustees, including the Village President, shall constitute a quorum, but a lesser number may adjourn from time to time or compel the attendance of absent members. A call of the house may be ordered by a majority vote if 3 Trustees are present.

(2) ORDER OF BUSINESS. The business of the Village Board shall be conducted in the following order:

- (a) Call to order.
- (b) Roll call. If a quorum is not present, the meeting shall be adjourned, which may be to a specific date.

- (c) Recitation of the Pledge of Allegiance.
- (d) Announcements.
- (e) Approval of consent agenda
- (f) Correction and approval of minutes of previous meeting.
- (g) Hear citizens wishing to address the Village Board.
- (h) Unfinished business from previous meeting.
- (i) New business.
- (j) Introduction and action on ordinances.
- (k) Introduction and action on resolutions.
- (l) Communications.
- (m) Reports of Committees, Commissions and Boards.
- (n) Reports from Administrator and department heads.
- (o) Report from Village President.
- (p) Any other matters that may be brought before the board.
- (q) Adjournment.

[Am.02-47, Eff. 11-21-02; Am. 05-09, Eff. 3-7-05; Am. 21-31, Eff. 11/27/21]

(2m) MEETING AGENDA.

(a) Preparation of Agenda. The Village President shall be responsible for determining those items which shall be placed on the agenda for each regular or special Village Board meeting. Any three trustees may request in writing that the Village President include any item appropriate for Village Board action on the agenda for any meeting. Requests shall be submitted to the Village Clerk on a form provided by the Clerk and shall indicate the nature of the item to be added, the purpose of the item and the action desired and shall include the hand signature of the trustees requesting the special meeting or the agenda item. Where applicable, the request shall also include a draft of the resolution, ordinance or any other documents proposed to be acted upon. The Village President shall include any such item on the agenda for the next regular meeting or a special meeting if so requested, provided, however, that if the request is received less than three business days prior to a meeting, the President may delay the item until the next subsequent regular meeting.

[Am. 21-12, Eff. 7-15-21; Am. 21-18, Eff. 7-21-21]

(b) Consent Agenda. Notwithstanding the general order of business provided in sub. (2), the Village President may place any one or more items on a consent agenda under sub. (2)(e) which, in his or her judgment, are routine or otherwise likely to be approved by unanimous consent. No separate discussion or debate on matters on the consent agenda shall be permitted. A single motion, seconded and adopted by majority vote of the Village Board, shall be sufficient to approve, adopt, enact or otherwise favorably resolve all matters listed on the consent agenda without separate discussion thereof. When the consent agenda is announced by the presiding officer at the meeting, any trustee may request removal of any item from the consent agenda, and such item shall be removed without further debate or vote. Any trustee may, at any time prior to a vote on the main motion, announce his or her intention to abstain from voting on any item included within the consent agenda, and shall be deemed to have abstained on any item so designated regardless of his or her vote on the main motion. Any item or part thereof removed from the consent agenda by request of one or more trustees shall be considered separately at an appropriate time during the meeting as determined by the presiding officer.

[Cr. 05-09, Eff. 3-7-05; Am. 12-22, Eff. 8-4-12]

(3) PRESIDING OFFICER.

(a) Control of Meeting. The Village President shall preserve order and conduct the proceedings of the meeting. A member may appeal from the decision of the presiding officer. Such appeal is not debatable and must be sustained by a majority of the members present, exclusive of the presiding officer.

(b) Absence of Village President. If the Village President is absent at any meeting, the Village Administrator shall call the meeting to order and preside until the Board selects a Trustee to preside for that meeting.

(4) [Renum. to 1.075(2) & (3), 23-14, Eff. 5-27-23]

(5) ORDINANCES AND RESOLUTIONS. Ordinances, resolutions, bylaws, communications and other matters submitted to the Board shall be read by title by the Village President. Unless requested by a Trustee before a final vote is taken, no ordinance, resolution or bylaw need be read in full.

[Am. 21-31, Eff. 11/27/21]

(6) GENERAL RULES. The deliberations of the Board shall be conducted in accordance with the parliamentary rules contained in the most current edition of *Robert's Rules of Order*. No person other than a member shall address the Village Board except during a public hearing, a public appearances agenda item or otherwise by majority vote of the members present. No ordinance, resolution or other motion shall be discussed or acted upon unless it has been seconded. No motion shall be withdrawn or modified without the consent of the person making the same and the person seconding it.

[Am. 21-31, Eff. 11/27/21]

(7) SUSPENSION OF RULES. These rules or any part thereof may be temporarily suspended in connection with any matter under consideration by a recorded vote of 2/3 of the members present.

1.075 COMMITTEES.

[Cr. 23-14, Eff. 5-16-23]

(1) PUBLIC SERVICES COMMITTEE.

(a) Composition. The Public Services Committee shall consist of 2 Village Trustees and 5 residents of the Village who are not Village officers.

(b) Appointment and Term. All members of the Committee shall be appointed by the Village President and confirmed by the Village Board. Resident members shall serve a two-year term commencing on May 1 of each odd numbered year. The term of the Trustee members shall extend from the time of appointment through the remainder of their terms as Village Trustees. The Village President shall designate one Trustee member as the Chairperson of the Commission on an annual basis.

(c) Functions and Duties. The Committee may make recommendations to the Village Board regarding :

1. Capital improvement planning and project prioritization.

2. Park and Open Space Planning.
3. Trail development and use.
4. Street projects.
5. Forestry and natural resource policies.
6. Any other matter referred to the Committee by the Village Board.

(d) Meetings. The Committee shall meet periodically as determined by the Committee. Additional meetings shall be held at the call of the Chair.

(2) AD HOC COMMITTEES. (a) Membership. The Village President shall appoint all members to ad hoc committees and designate the chairperson of each.
[Am. 23-12, Eff. , Am. 23-14, Eff. 5-16-23]

(3) REPORTS. Committee reports shall, whenever practicable, be submitted in writing and shall address all matters referred to the committee with a recommendation of specific action on each item referred. Any committee may require any Village officer or employee to confer with it and supply information in connection with any matter pending before it. Reports and recommendation under this paragraph may be submitted in the form of minutes of the meetings of the respective bodies.
[Am. 23-14, Eff. 5-16-23]

1.08 PUBLIC RECORDS.

(1) DEFINITIONS. (a) "Authority" means any of the following Village entities having custody of a Village record: an office, elected official, agency, board, commission, committee, Village Board, department or public body corporate and politic created by constitution, law, ordinance, rule or order; or a formally constituted subunit of the foregoing.

(b) "Custodian" means that officer, department head, division or employee of the Village designated under sub. (3) or otherwise responsible by law to keep and preserve any Village record or file, deposit or keep such record in his office, or is lawfully in possession or entitled to possession of such public records and who is required by this section to respond to requests for access to such records.

(c) "Record" means any material on which written, drawn, printed, spoken, visual or electromagnetic information is recorded or preserved, regardless of physical form or characteristics, which has been created or is being kept by an authority. "Record" includes, but is not limited to, handwritten, typed or printed pages, maps, charts, photographs, films, recordings, tapes (including computer tapes), and computer printouts. "Record" does not include drafts, notes, preliminary computations and the like materials prepared for the originator's personal use or prepared by the originator in the name of a person for whom the originator is working, materials which are purely the personal property of the custodian and have no relation to his office, materials to which access is limited by copyright, patent or bequest, and published materials in the possession of an authority other than a public library which are available for sale, or which are available for inspection at a public library.

(2) DUTY TO MAINTAIN RECORDS. (a) Except as provided in sub. (7), each officer and employee of the Village shall safely keep and preserve all records received from

his predecessor or other persons and required by law to be filed, deposited or kept in his office or which are in the lawful possession or control of the officer or employee or his deputies, or to the possession or control of which he may be lawfully entitled as such officer or employee.

(b) Upon the expiration of an officer's term of office or an employee's term of employment, or whenever the office or position of employment becomes vacant, each such officer or employee shall deliver to his successor all records then in his custody and the successor shall receipt therefor to the officer or employee, who shall file said receipt with the Village Administrator, on behalf of the successor, to be delivered to such successor upon the latter's receipt.

(3) **LEGAL CUSTODIANS.** (a) Each elected official is the legal custodian of his records and the records of his office, but the official may designate an employee of his staff to act as the legal custodian.

(b) Unless otherwise prohibited by law, the Village Administrator or the Village Administrator's designee shall act as legal custodian for the Village Board and for any committees, commissions, boards or other authorities created by ordinance or resolution of the Village Board, or in his absence or disability or in case of vacancy, the clerk is hereby designated the legal custodian of all Village records.

(c) For every authority not specified in pars. (a) or (b), the authority's chief administrative officer is the legal custodian for the authority, but the officer may designate an employee of his staff to act as the legal custodian.

(d) Each legal custodian shall name a person to act as legal custodian in his absence or the absence of his designee.

(e) The legal custodian shall have full legal power to render decisions and to carry out the duties of an authority under Subch. II of Ch. 19, *Wis. Stats.*, and this section. The designation of a legal custodian does not affect the powers and duties of an authority under this section.

(4) **PUBLIC ACCESS TO RECORDS; FEES.** (a) Except as provided in sub. (6), any person has a right to inspect a record and to make or receive a copy of any record as provided in §19.35(1), *Wis. Stats.*

(b) Records will be available for inspection and copying during all regular office hours.

(c) A requester shall be permitted to use facilities comparable to those available to Village employees to inspect, copy or abstract a record.

(d) The legal custodian may require supervision during inspection or may impose other reasonable restrictions on the manner of access to an original record if the record is irreplaceable or easily damaged.

(e) A requester shall be charged a fee to defray the cost of locating and copying records as follows:

1. The cost of photocopying shall be \$.25 per page. Said cost has been calculated not to exceed the actual cost of reproduction.
[Am.03-28, Eff. 7-21-2003]
2. If mailing or shipping is necessary, the actual cost thereof shall also be charged.
3. There shall be no charge for locating a record unless the actual cost therefor exceeds \$50, in which case the actual cost shall be determined by the legal custodian and billed to the requester.
4. The legal custodian shall estimate the cost of all applicable fees and may require a cash deposit adequate to assure payment if such estimate exceeds \$5.
5. Elected and appointed officials of the Village shall not be required to pay for public records they may reasonably require for the proper performance of their official duties.
6. The legal custodian may provide copies of a record without charge or at a reduced charge where he determines that waiver or reduction of the fee is in the public interest.
7. All requests for real estate assessment reports and letters shall be accompanied by a \$50.00 administrative processing fee. Said \$50.00 fee shall cover the administrative costs of preparing the report and shall be in lieu of all other photocopying and processing fees established herein. Request for expedited reports shall include an additional \$25.00 fee.
[Cr. 93-18, Eff. 5-6-93; Am. 03-06, Eff. 2-3-03]

(f) Pursuant to §19.34, *Wis. Stats.*, and the guidelines therein listed, each authority shall adopt, prominently display, and make available for inspection and copying at its offices, for the guidance of the public, a notice containing a description of its organization and the established times and places at which, the legal custodian from whom, and the methods whereby the public may obtain information and access to records in its custody, make requests for records, or obtain copies of records, and the costs thereof. This paragraph does not apply to members of the Village Board.

(5) ACCESS PROCEDURES.

(a) A request to inspect or copy a record shall be made to the legal custodian. A request shall be deemed sufficient if it reasonably describes the requested record without a reasonable limitation as to subject matter or length of time represented by the record does not constitute a sufficient request. A request may be made orally, but a request must be in writing before an action to enforce the request is commenced under §19.37, *Wis. Stats.* Except as provided below, no request may be refused because the person making the request is unwilling to be identified or to state the purpose of the request. No request may be refused because the request is received by mail unless prepayment of a fee is required under sub. (4)(e)4. A requester may be required to show acceptable identification whenever the requested record is kept at a private residence or whenever security reasons or Federal law or regulations so require.

(b) Each custodian, upon request for any record, shall, as soon as practicable and without delay, either fill the request or notify the requester of the authority's determination to deny the request in whole or in part and the reasons therefor. If the legal custodian, after conferring with the Village Attorney, determines that a written request is so general as to be unduly time consuming, the party making the request may first be required to itemize his request in a manner which would permit reasonable compliance.

(c) A request for a record may be denied as provided in sub. (6). If a request is made orally, the request may be denied orally unless a demand for a written statement of the reasons denying the request is made by the requester within 5 business days of the oral denial. If a written request is denied in whole or in part, the requester shall receive a written statement of the reasons for denying the request. Every written denial of a request shall inform the requester that if the request for the record was made in writing, then the determination is subject to review upon petition for a writ of mandamus under §19.37(1), *Wis. Stats.*, or upon application to the Attorney General or a district attorney.

(6) LIMITATION ON RIGHT TO ACCESS.

(a) As provided by §19.36, *Wis. Stats.*, the following records are exempt from inspection under this section:

1. Records specifically exempted from disclosure by state or Federal law or authorized to be exempted from disclosure by state law.
2. Any record relating to investigative information obtained for law enforcement purposes if Federal law or regulations require exemption from disclosure or if exemption from disclosure is a condition to receipt of aids by the state.
3. Computer programs, although the material used as input for a computer program or the material produced as a product of the computer program is subject to inspection.
4. A record or any portion of a record containing information qualifying as a common law trade secret.

(b) As provided by §43.30, *Wis. Stats.*, public library circulation records are exempt from inspection under this section.

(c) As provided by §70.47(7)(af), *Wis. Stats.*, no information provided to the Village Assessor pursuant to sec. 2.07 of this Code shall be subject to public disclosure unless a court of competent jurisdiction has determined that such information is inaccurate.
[Cr. 01-22, Eff. 5-10-01]

(d) In responding to a request for inspection or copying of a record which is not specifically exempt from disclosure, the legal custodian, after conferring with the Village Attorney, may deny the request, in whole or in part, only if he determines that the harm to the public interest resulting from disclosure would outweigh the public interest in full access to the requested record. Examples of matters for which disclosure may be refused include, but are not limited to, the following:

1. Records obtained under official pledges of confidentiality which were necessary and given in order to obtain the information contained in them.
2. Records of current deliberations after a quasi-judicial hearing.
3. Records of current deliberations concerning employment, dismissal, promotion, demotion, compensation, performance, or discipline of any Village officer or employee, or the investigation of charges against a Village officer or employee, unless such officer or employee consents to such disclosure.
4. Records concerning current strategy for crime detection or prevention.
5. Records of current deliberations or negotiations on the purchase of Village property, investing of Village funds or other Village business whenever competitive or bargaining reasons require nondisclosure.
6. Financial, medical, social or personal histories or disciplinary data of specific persons which, if disclosed, would be likely to have a substantial adverse effect upon the reputation of any person referred to in such history or data.
7. Communications between legal counsel for the Village and any officer, agent or employee of the Village when advice is being rendered concerning strategy with respect to current litigation in which the Village or any of its officers, agents or employees is, or is likely, to become involved, or communications which are privileged under §905.03, *Wis. Stats.*

(e) If a record contains information that may be made public and information that may not be made public, the custodian of the record shall provide the information that may be made public and delete the information that may not be made public from the record before release. The custodian shall confer with the Village Attorney prior to releasing any such record and shall follow the guidance of the Village Attorney when separating out the exempt material. If, in the judgment of the custodian and the Village Attorney there is no feasible way to separate the exempt material from the nonexempt material without unreasonably jeopardizing nondisclosure of the exempt material, the entire record shall be withheld from disclosure.

(7) DESTRUCTION OF RECORDS.

(a) The Custodian may destroy records after retaining them for the minimum time periods specified in sec. 1.08(8) below. In addition, the Custodian may destroy hardcopies of records that have been preserved in an electronic format through the Village's document management software, pursuant to sec. 1.08(9) below.
[Am. 17-09, Eff. 4-5-17]

(b) Any record whose minimum retention period is not enumerated below or governed by any other regulation or law shall be retained at least seven (7) years unless a shorter time period is approved by the State Public Records and Forms Board.

(c) The Custodian shall notify the State Historical Society of Wisconsin ("SHSW") in writing at least sixty (60) days prior to destroying records, unless the notice requirement is waived by the SHSW.

(d) The destruction of a record which is the subject of a request for inspection or an action under §19.37, *Wis. Stats.* is governed by §19.35(5), *Wis. Stats.*

(8) RECORD RETENTION SCHEDULE.

[Recr. 94-38, Eff. 8-15-94]

The following records may be destroyed after expiration of the designated retention periods:

(a) Village Administration

1. Village Board Records

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Minute Book	Permanent or transfer to SHSW.
Audio Tapes	1 year.
Ordinances	Permanent or transfer to SHSW.
Resolutions	Permanent or transfer to SHSW.
Ordinance Book	Permanent or transfer to SHSW.
Affidavits of Publication	3 years, provided affidavits of publication of ordinances are maintained permanently in the ordinance book.

2. Real Property Titles

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Deeds	Permanent.
Opinions of Title	Permanent.
Abstracts and Certificates of Title	Permanent.
Title Insurance Policies	Permanent.
Plats	Permanent.
Easements	Permanent.

Leases	7 years after termination of the lease.
Vacation or Alteration of Plat	Permanent.

3. Licenses and Permits

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Applications Accepted	4 years for all liquor and beer related license and applications, all other applications 3 years.
Rejected	
Receipts	7 years.
License Stubs	4 years for all liquor and beer related license stubs; all other stubs 3 years.
Monthly Report of Dog Licenses to County Clerk	3 years.

4. Municipal Borrowing

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Bond Procedure Record	7 years after the bond issue has expired.
Bond Register	7 years after the bond issue has expired.
Bond Payment Register	7 years after the bond issue has expired or following payment of all outstanding matured bonds/notes/coupons, whichever is later.
Canceled Bonds, Coupons, and Promissory Notes	Retain until audited.
Certificates of Destruction	7 years after the bond issue has expired or following payment of all outstanding matured bonds/notes/coupons, whichever is later.

5. Fidelity Bonds

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Fidelity Bond	5 years after the bond has expired.
Fidelity Bond Book	5 years after the last bond entered has expired.

Oath of Office 5 years after the term of service covered by the oath has ended.

6. Legal Opinions

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
------------------------------	-------------------------

Legal Opinions Permanent...

7. Municipal Court Records

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Audio/Video Recordings of Trials	10 years after recording.
Municipal Court Case Files	5 years after entry of final judgment.
Municipal Court Exhibits	1 year following the expiration of the statutory period for appeal unless all parties have stipulated to earlier return. Exhibits shall be offered to the proffering party before being disposed of.
Municipal Court Money Judgment Record	20 years after final docket entry.

(b) Elections

1. Voter Registration Records

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Registry List	90 days after the first Spring or general election succeeding the election in which the list was used.
Active Registration Cards	Retain in the active file as long as current.
Canceled Registration Cards	4 years after cancellation.
Poll List	90 days after the first Spring or general election succeeding the election in which the list was created, provided lists created for federal elections are retained 22 months.

1. Nomination Records

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Nomination Papers	90 days after the election.
Certificate Listing Candidates Nominated by Caucus	90 days after the election.

2. Campaign Records

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Election Campaign Registration Statements	6 years.
Election Campaign Financial Reports	6 years.

3. Election Records and Supplies

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Election Notices	90 days after the election.
Applications for Absentee Ballots	90 days, provided applications for federal elections are retained 22 months.
Paper Ballots and Voting Machine Recorders	90 days after the election. Note: Voting machine recorders may be reactivated 14 days following a primary or 60 days following a spring or general election.
Tally Sheets	90 days after the election.
Inspector's Statement of Defective and Challenged Ballots	90 days after the election.
Statement of the Municipal Board of Canvassers	Permanent.

(c) Finance

1. Accounting

a. Accounts Payable

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Purchase Invoices	7 years, provided record has been audited.
Vouchers	7 years, provided record has been audited.

b. Accounts Receivable

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Accounts Receivable Invoices	7 years, provided record has been audited.
Receipts	7 years, provided record has been audited.
Collection Blotters	1 year after audit.

c. Books of Original Entry

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Receipt Journal	15 years.
Voucher/Order Register	15 years.
General Journal	15 years.
Journal Voucher	15 years.
Appropriation Journal	15 years.
Appropriation Journal Voucher	15 years.

d. Posted Ledger

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
General Ledger	15 years and transfer to SHSW.

e. Treasurer's Records

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Cashbook	15 years.
Daily Cash Drawer Reconciliations	1 year after audit.
Bank Reconciliations	7 years.
Bank Statements	7 years.
Canceled Order Checks	7 years.
Lists of Outstanding Checks	7 years.
Check Register	7 years.
Duplicate Deposit Tickets	1 year after audit.
Bank Credit/Debit Notices	1 year after audit.
Investment Records	7 years.

2. Payroll

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Payroll Support Records	2 years, provided records have been audited.
Employee's Withholding Allowance Certificate	5 years after being superseded.
Employee's Wisconsin Withholding Exemption Certificate	5 years after being superseded.
Employee Enrollment and Waiver Cards	2 years after being superseded or terminated.
Employee Earning Records	5 years.
Payroll Check Register	5 years, provided record has been audited.
Payroll Distribution Record	5 years, provided record has been audited.

Payroll Voucher	5 years, provided record has been audited.
Canceled Payroll Checks	5 years, provided record has been audited.
Wage and Tax Statement (IRS Form W-2)	5 years, provided record has been audited.
Wage and Tax Statement (Dept. of Revenue Form WT-9)	5 years, provided record has been audited.
Report of Wisconsin Income Tax Withheld	5 years, provided record has been audited.
Employer's Annual Reconciliation of Wisconsin Income Tax Withheld From Wages	5 years, provided record has been audited.
Federal Deposit Tax Stubs	5 years, provided record has been audited.
Quarterly Report of Federal Income Tax Withheld	5 years, provided record has been audited.
Annual Report of Federal Income Tax Withheld	5 years.
State's Quarterly Report of Wages Paid	5 years, provided record has been audited.
Monthly Memorandum Report	5 years, provided record has been audited.
Quarterly Report, Payroll Summary	5 years, provided record has been audited.
Change in Employee Status	5 years.
Premium Due Notices	5 years, provided record has been audited.
3. Purchasing	
<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Purchase Requisitions	1 year after audit.
Purchase Orders	7 years.
Receiving Report	7 years.

Bids, Successful
Bids, Unsuccessful

7 years after the contract has expired.
1 year after audit.

Inventory of Property

Retain until superseded.

4. Budgets and Audits

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
------------------------------	-------------------------

Budget Worksheets

3 years.

Final Budget

Permanent.

Audit Reports

Permanent or transfer to SHSW.

(d) Revenue

1. Property Assessment

a. Real Property

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
------------------------------	-------------------------

Master Property Record
transfer to Folders

5 years beyond the life of the structure and then
SHSW.

Index to Owners

Retain until superseded.

Wisconsin Real Estate
Transfer Returns

5 years after the information has been transferred to
the Master Property Record Folder.

Transfer Returns

Master Property Record Folder.

Deeds (copies)

1 year after the information has been transferred to the
Master Property Record Folder.

Building Permit
Applications (copies)

1 year after the information has been transferred to the
Master Property Record Folder.

Plats

Permanent.

Certified Surveys

Permanent.

Assessor's Plats

Permanent.

Aerial Photographs

Retain until superseded.

Tax Exemption Reports

10 years.

Notice of Increased Assessment	5 years. Where the assessment has been appealed, retain 7 years after the final action of the Board of Review or the completion of the appeal.
Assessor's Final Report Supplement	5 years.
Assessor's Final Report	5 years.
Statement of Assessment	Retain for life of the assessment roll.
Final Statement of Assessment	Permanent or transfer to SHSW.
Final Real Property Assessment Roll	15 years, provided no assessment rolls containing forest crop acreage may be destroyed without prior approval of the Secretary of Revenue.

b. Personal Property

Occupational Tax Returns	5 years.
Merchants', Professions' Statement of Property	5 years.
Personal Property Worksheets/ Farmers & Personal Property Not Used for the Production of Income	5 years.
Report of Inventory Location	5 years.
List of Beekeepers	3 years.
Request for Exemption of Merchandise in Storage	3 years.
Statement of Merchandise Exempted	3 years.
Assessor's Personal Property Summary Worksheet	5 years.
Assessor's Final Report	5 years.
Final Personal Property without Assessment Roll	15 years, provided no assessment roll destroyed prior approval of the Secretary of Revenue.

2. Board of Review

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Form of Objection to Property the Assessment and Supporting Documentation	7 years after the final action of the Board of Review or completion of appeal.
Minute Book	7 years and then transfer to SHSW.
Proceedings of the Board of the Review on Audio Tapes or as Stenographic Notes Including Any Transcriptions Thereof	7 years after the final action of the Board of Review or completion of appeal.
Notice of Determinations the of the Board of Review	7 years after the final action of the Board of Review or completion of appeal.

3. Special Assessments

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Preliminary Resolution	2 years, provided a copy of the resolution is on file with the public works project records.
Report on Special Assessment Project	2 years, provided a copy of the report is on file with the public works project records.
Waiver of Special Assessment Notice and Hearing	1 year or retain 1 year after the final resolution is approved.
Final Resolution	Permanent.
Certified Special Assessment Roll	Retain until all assessments are collected or for 7 years, whichever is longer.
Statement of New Special Assessments	5 years provided record has been audited.
Special Assessment Payment Register	Retain until all assessments are collected or for 7 years, whichever is longer.

4. Tax Calculation

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Tax Levy Certification of the School District Clerk	3 years, provided record has been audited.

Certificates of Apportionment	3 years, provided record has been audited.
State Shared Aid Payment Notices	6 years, provided record has been audited.
Final Worksheet for Determining Allowable Levy	5 years, provided record has been audited.
Statement of Taxes	Retain final copy permanently or transfer to SHSW.
Statement of New Special Assessments	5 years, provided record has been audited.
Statement of Sewer Services Charges	5 years, provided record has been audited.
General Property Tax Credit Certification	5 years, provided record has been audited.
Explanation of Property Tax Credit Certification	5 years, provided record has been audited.
Real Property Tax Roll	This record is transferred to the county treasurer.
Personal Property Tax Roll	15 years and transfer to SHSW if postponed or delinquent taxes are not transferred to the county treasurer.

5. Tax Collection

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Escrow Account List	Retain until superseded.
Receipts	7 years provided record has been audited.
Receipt Stub Book	7 years provided record has been audited.
Tax Collection Blotters	Retain until audited.
Statement of Taxes Remaining Unpaid	Retain with the tax roll.
Tax Settlement Receipt	5 years provided record has been audited.
Municipal Treasurer's Settlement	5 years provided record has been audited.
Personal Property Tax Roll	15 years and transfer to SHSW.

(e) Engineering and Public Works

1. Engineering Services

<u>DESCRIPTION OF RECORD</u>	<u>RETENTION PERIOD</u>
Field Notes	Permanent.
Benchmark Books	Permanent.
Section Corner Monument Logs	Permanent.
Aerial Photographs	Retain until superseded.
Village Maps	Permanent.
Water, Storm, and Sanitary Sewer Main Maps	Permanent.
Profile and Grade Books	Permanent.
Excavation Plans of Private Utilities	Permanent.
Index to Maps	Permanent.
Preliminary Subdivision Plats	Retain until superseded by the final plat.
Final Subdivision Plats	Permanent.
Annexation Plats	Permanent.
Assessor's Plats	Permanent.
Structure Plans for Municipal Buildings and Bridges	Retain for life of the structure and transfer to SHSW.

(9) ELECTRONIC RECORDS.

(a) The Custodian may preserve public records by converting the records into an electronic format by means of the Village's document management software. Electronically preserved records shall meet the standards set forth in secs. 16.61(7) and 16.612, Wis. Stats., and Wis. Admin. Code Adm 12.

(b) The Custodian who preserves a public record in an electronic format shall execute a statement of intent and purpose and certification, as provided in sec. 16.61(7)(a)5, Wis. Stats. Each executed statement and certification shall be stored by the Custodian with the relevant records and kept on file in the Custodian's office.

[Am. 17-09, Eff. 4-5-17]

1.09 INTEREST ON PASS-THROUGH CHARGES.

[Am. 15-04, Eff. 1-19-15]

(1) **APPLICABILITY.** This subsection applies to all invoices which are billed to the Village of DeForest and passed through to the individual responsible for payment.

[Cr. 93-17, Eff. 1993]

(2) **INTEREST.** Interest at the rate of 12% per annum, compounded monthly, shall accrue on all invoices owed to the Village of DeForest which are 30 days past due. Charges covered by sec. 8.02(2) and 8.62 of this Code shall not accrue interest.

[Cr. 93.17, Eff. 1993; Renumbered 15-04, Eff. 1-19-15]

All invoices shall bear the notation: "Interest will be charged at 12% per annum, compounded monthly, on accounts 30 days past due."

[Cr. 93-17, Eff. 1993]

1.10 AUTHORITY TO ISSUE CITATIONS.

Municipal citation for violations of this Code may be issued by any person as authorized in this section.

[Cr. 14-13, Eff. 04-15-14]

(1) **VILLAGE ADMINISTRATOR.** The Village Administrator may issue citations with respect to all non-traffic ordinance violations.

[Cr. 14-13, Eff. 04-15-14]

(2) **LAW ENFORCEMENT OFFICERS.** Citations for all municipal ordinance violations, including traffic violations, may be issued by:

(a) The Chief of Police;

(b) Any law enforcement officer employed by the Village; and

(c) Any law enforcement officer while providing law enforcement assistance within the Village, pursuant to §66.0313, *Wis. Stats.*, or under an intergovernmental agreement.

[Cr. 14-13, Eff. 04-15-14]

(3) Any civilian employee of the Police Department may issue citations with respect to violations of secs. 3.06, 3.07, 3.10(1), 3.11(3)(g), and 3.11(3)(h), of this Code.

[Cr. 14-13, Eff. 04-15-14]

(4) The Fire Chief and any Deputy Fire Inspector may issue citations with respect to violations of all provisions of Chs. 5 and 10, as they relate to fire fighting and fire safety, protection and prevention, Ch. 11, as they relate to flammable liquids and materials, fireworks, smoke and fumes, Ch. 14, as they relate to fire safety, prevention and protection, and secs. 7.06(2), 16.01(3)(m), 23.10 and 27.05(2)(n) and (o) of this Code.

[Cr. 14-13, Eff. 04-15-14]

(5) The Building Inspector may issue citations with respect to violations of all provisions of Chs. 11, 14, 22, 24, 27; and secs. 7.06(2) and (3), 7.071, 7.10, 7.11, 8.02, 8.04, 9.06, 9.07, 12.01(6) and 12.07 of this Code.

[Cr. 14-13, Eff. 04-15-14]

(6) The Director of Public Services may issue citations with respect to violations of all provisions of Chs. 7, 8, 12.01(6); 22; and 24; and secs. 11.035, 11.05(3)-(6), (9), (11), (13), 23.10, and 27.05(2)(q)1 of this Code.

[Cr. 14-13, Eff. 04-15-14; Am. 15-33, Eff. 07-07-15]

(7) The Zoning Administrator may issue citations with respect to violations of all provisions of Chs. 13, 15, 21, 24, 25, and 27 and secs. 11.03(3)-(4) and (7)-(11), 11.05(1)-(6), (8) and (15) of this Code.

[Cr. 14-13, Eff. 04-15-14]

(8) The Forester may issue citations for with respect to violations of secs. 11.05(5)-(6) and 11.06, and Subchapter II of Ch. 16 of this Code.

[Cr. 14-13, Eff. 04-15-14]

(9) The Weed Commissioner may issue citations with respect to violations of secs. 11.03(8), 11.05(4)-(6), 11.06, 12.07, 27.05(2)(b),(2)(f) and (2)(q)3 of this Code.

[Cr. 14-13, Eff. 04-15-14]

CHAPTER 2 FINANCE AND TAXATION

2.01 PREPARATION OF TAX ROLL AND TAX RECEIPTS	1
2.015 DELINQUENT PERSONAL PROPERTY TAXES	1
2.02 DUPLICATE TREASURER'S BOND ELIMINATED	2
2.03 BUDGET PROCEDURE	2
2.04 CLAIMS	3
2.05 PURCHASES.....	4
2.055 PUBLIC BIDDING.....	4
2.06 ORDER CHECKS, EXECUTION OF	4
2.07 CONFIDENTIALITY OF CERTAIN SUBMITTALS TO BOARD OF REVIEW	4
2.08 TRANSIENT ROOM TAX ESTABLISHED.....	5
2.09 GARBAGE/RECYCLING COLLECTION CHARGES FOR TAX EXEMPT PARCEL	9
2.10 FEE FOR CHECKS RECEIVED AS INSUFFICIENT OR UNCOLLECTIBLE FUNDS	9
2.11 CHARGES FOR USE OF VILLAGE EQUIPMENT	9
2.12 FEES FOR TAX EXEMPTION REPORTS	9
2.13 CONVENIENCE FEE FOR ONLINE PAYMENTS.....	9
2.14 DISPOSAL OF ABANDONED PROPERTY.....	10

2.01 PREPARATION OF TAX ROLL AND TAX RECEIPTS.

(1) AGGREGATE TAX STATED ON ROLL. Pursuant to §70.65(2), *Wis. Stats.*, the Village Administrator shall, in computing the tax roll, insert only the aggregate amount of State, County, school and local taxes in a single column in the roll opposite the parcel or tract of land against which the tax is levied, or, in the case of personal property, in a single column opposite the name of the person against whom the tax is levied.

(2) RATES STAMPED ON RECEIPTS. Pursuant to §74.19, *Wis. Stats.*, in lieu of entering on each tax receipt the several amounts paid respectively for State, County, school, local and other taxes, the aggregate amount of such taxes shall be combined in a single column on the tax receipt issued by the Village Administrator. The Village Administrator shall cause to be printed or stamped on the tax receipt the separate proportion or rate of taxes levied for State, County, school, local or other purpose.

2.015 DELINQUENT PERSONAL PROPERTY TAXES.

(1) COLLECTION. The Finance Director shall be responsible for the collection of all delinquent personal property taxes held by the Village.

(2) INSTALLMENT PAYMENTS. The Finance Director may set an installment schedule for repayment of delinquent personal property tax. This schedule shall not be longer than two years and shall be at an interest rate of 8.5%.

(3) CHARGE BACK. The Finance Director shall each year charge back those personal property tax bills according to the Wisconsin Statutes to the appropriate taxing jurisdictions. The Finance Director shall not refund the charged back taxes to the other taxing jurisdictions until the tax is paid in full.

(4) WRITE OFF. The Finance Director shall write off the uncollectible Village portion of the personal property tax and supply a list to the Village Board stating the name, tax year, amount of the personal property tax, and the amount of the tax being written off. This does not negate the individual(s) from this debt. The Finance Director shall then continue the collection process in an effort to make the Village whole for any loss it may have incurred as a result of the personal property tax not being paid.

(5) REIMBURSEMENT OF CHARGE BACK. The Finance Director, upon payment of any charged back personal property tax, shall remit a reimbursement to the taxing jurisdictions if that entity has reimbursed the Village for the amount charged back.

[Cr. 96-13, Eff. 3-4-96]

2.02 DUPLICATE TREASURER'S BOND ELIMINATED.

(1) TREASURER'S BOND ELIMINATED. The Village of DeForest elects not to require a bond on the Treasurer provided for by §70.67(1), *Wis. Stats.*

[Am. 95-58, Eff.12-4-95]

(2) VILLAGE LIABLE FOR DEFAULT OF TREASURER. Pursuant to §70.67(2), *Wis. Stats.*, the Village shall be obligated to pay, in case the Treasurer shall fail to do so, taxes of any kind required by law to be paid by such Treasurer to the County Treasurer.

[Am. 95-58, Eff.12-4-95]

2.03 BUDGET PROCEDURE.

(1) Annually, on or before October 1, each officer, department or board shall file with the Village Administrator an itemized statement of disbursements made to carry out the powers and duties of such officer, department or board during the current fiscal year to date, and a detailed statement of the receipts and disbursements on account of any special fund under the supervision of such officer, department or board during such year, and of the condition and management of such funds; also detailed estimates of the same matters for the remainder of the current fiscal year and for the ensuing fiscal year. Such statements shall be presented in the form prescribed by the Village Administrator and shall be designed as the "departmental estimates" and shall be as nearly uniform as possible for the main divisions of all departments.

(2) The Village Board shall consider such departmental estimates in consultation with the department heads and shall then determine the total amount to be included in the proposed budget for such department or activity.

[Am. 10-24, Eff. 5-3-10]

(3) The Village Board, with the assistance of the Village Administrator, shall prepare a proposed budget for presentation at a public hearing. The budget shall include the following information:

[Am. 10-24, Eff. 5-3-10]

(a) The expense of conducting each department and activity of the Village for the ensuing fiscal year and corresponding items for the current year and last preceding fiscal year, with reasons for increase and decrease recommended as compared with appropriations for the current fiscal year.

(b) An itemization of all anticipated income of the Village from sources other than general property taxes and bonds issued, with a comparative statement of the amounts received by the Village from each of the same or similar sources for the last preceding and current fiscal year.

(c) An itemization of the amount of money to be raised from general property taxes which, with income from other sources, will be necessary to meet the proposed expenditures.

(d) Such other information as may be deemed appropriate by the Village Board. The Board shall publish a summary of the budget as required by law and provide a reasonable number of copies of the detailed budget thus prepared for distribution to citizens.
[Am. 10-24, Eff. 5-3-10]

(4) [Repealed 10-24, Eff. 5-3-10]

(5) The Village Board may, pursuant to §65.90(5), *Wis. Stats.*, at any time by a 2/3 vote of the entire membership, transfer any portion of an unencumbered balance of an appropriation to any other purpose or object. Notice of such transfer shall be given by publication within 10 days thereafter in the official Village newspaper.
[Am. 10-24, Eff. 5-3-10]

(6) No money shall be drawn from the treasury of the Village, nor shall any obligation for the expenditure of money be incurred, except in pursuance of the annual resolution, or of such resolution when changed as authorized by sub. (5) of this section. At the close of each fiscal year any unencumbered balance of an appropriation shall revert to the general fund and shall be subject to reappropriation; but an appropriation may be made by the Village Board, to be paid out of the income of the current year, in furtherance of improvements or other objects or works which will not be completed within such year, and any such appropriation shall continue in force until the purpose for which it was made shall have been accomplished or abandoned.

2.04 CLAIMS.

[Am. 16-19, Eff. 07-15-16]

(1) All claims shall be reviewed by the Village Administrator and approved by the Village Board before payment, except that claims not subject to §893.80, *Wis. Stats.*, may be approved for payment pursuant to paragraph (2).

(2) Claims not subject to §893.80, *Wis. Stats.*, may be paid from the Village treasury after the Village Clerk audits and approves each claim as a proper charge against the treasury, and endorses his or her approval on the claim after having determined that all of the following conditions have been complied with:

- (a) That funds are available for the claim pursuant to the budget approved by the Village Board.
- (b) That the item or service covered by the claim has been duly authorized by the proper official, department head or board or commission.
- (c) That the item or service has been actually supplied or rendered in conformity with the authorization described in par. (b).

- (d) That the claim is just and valid pursuant to law. The Village Clerk may require the submission of proof to support the claim as the Clerk considers necessary.
- (3) At each regular Village Board meeting, the Village Clerk shall file with the Village Board a list of the claims approved by the Clerk showing the date paid, name of claimant, purpose and amount, along with the check register covering all claims approved by the Clerk not previously reported under this subsection.
- (4) An annual detailed audit of the Village's financial transactions and accounts shall be made pursuant to §66.609(2), Wis. Stats.

(5) The Village Clerk may approve the payment of claims pursuant to this section only if he or she is covered by a fidelity bond of no less than \$5,000.
[Am. 16-19, Eff. 07-15-16]

2.05 PURCHASES. No equipment or supplies shall be purchased by any person unless previously budgeted and approved by the appropriate committee chairman, or approved by the Village Board. However, emergency purchases not to exceed \$500 may be approved by the Village Administrator and the appropriate Committee Chairman.

2.055 PUBLIC BIDDING. (1) GENERAL PROCEDURES. As a complete alternative to the requirements established by 61.54 and 61.55 Wis. Stats., the provisions of 62.15, Wis. Stats., shall be applicable to Village contracts. The authority vested in the Board of Public Works shall in such case be exercised by the Village Board, or as delegated by the Village Board.

(2) EXCEPTION. Pursuant to Sec. 62.15(1), Wis. Stats., the Village Board, by vote of three-fourths (3/4) of all the members thereof, may determine that any class of public construction or any part thereof may be done directly by the Village without submitting the same for bids.

[Cr. 09-23, Eff. 7-25-09]

2.06 ORDER CHECKS, EXECUTION OF. All disbursements of the Village shall be by order check which shall not be valid unless signed by the Finance Director and countersigned by the Village Clerk. In the event either the Finance Director or Clerk are absent from the Village, or if either position shall be permanently or temporarily vacant, order checks may be signed by deputy treasurer or deputy clerk, respectively, in their stead.
[Am. 03-21, Eff. 6-2-03]

2.07 CONFIDENTIALITY OF CERTAIN SUBMITTALS TO BOARD OF REVIEW.

(1) Information related to income or expenses required to be submitted to the Board of Review by §70.47(7)(af), *Wis. Stats.* to support or challenge the valuation of property based on the income method of valuation shall be maintained as confidential and shall not be disclosed to any person other to one of the following:

- (a) the person submitting the information,
- (b) such other persons as may be expressly authorized in writing by the person submitting the information to receive the information,
- (c) the person or entity whose income or expenses are reflected in the information,

(d) any person using the information in the discharge of duties imposed by law or of the duties of their office, or

(e) any person to whom disclosure is required or authorized by order of a court of competent jurisdiction.

(2) This section shall not apply to any information which has been found by a court of competent jurisdiction to be inaccurate.

[Cr. 01-22, Eff. 5-10-01]

2.08 TRANSIENT ROOM TAX ESTABLISHED.

(1) **DEFINITIONS.** The following definitions shall apply to the terms used in this chapter:

(a) "Transient lodging facility" means any building or group of buildings in which the public may obtain accommodations for a consideration including, without limitation, such establishments as inns, motels, tourist homes, tourist houses or courts, lodging houses, rooming houses, tourist rooming houses, summer camps, apartment hotels, resort lodges and cabins and any single or multi-family residence or other building or group of buildings in which accommodations are available to the public, except accommodations rented for a continuous period of thirty (30) or more days and accommodations furnished by any hospitals, sanitariums or nursing homes, or by corporations or associations organized and operated exclusively for religious, charitable or educational purposes provided that no part of the net earnings of such corporations and associations inures to the benefit of any private shareholder or individual, and excepting mobile home parks.

(b) Gross Receipts has the meaning as defined in Wis. Stats. §77.51(4) insofar as applicable.

(c) Transient means any person residing for a continuous period of less than thirty (30) days in a hotel, motel or other transient lodging facility available to the public.

(2) **ROOM TAX ESTABLISHED.** Pursuant to §66.0615, Wis. Stats., a tax is hereby imposed on the privilege and service of furnishing, at retail, rooms or lodging to transients by transient lodging facilities irrespective of whether membership is required for the use of the accommodations. Such tax shall be at the rate of eight percent (8%) of the gross receipts from such retail furnishing of rooms or lodging. Such tax shall not be subject to the selective sales tax imposed by §77.52(2), Wis. Stats., and may not be imposed on sales to the federal government and persons listed in §77.54(9a), Wis. Stats.

[Am. 18-24, Eff. 11-16-18; Am. 20-07, Eff. 3-13-20]

(3) **COLLECTION OF ROOM TAX.** The tax imposed under this section shall be administered by the Village Clerk. The taxes shall be due and payable to the Village quarterly on or before the last day of the month next succeeding the end of a calendar quarter for which the tax is imposed. A return shall be filed with the Clerk by those furnishing at retail such rooms, lodging or accommodations on or before the same date on which such tax is due and payable. Such return shall show the gross receipts of the preceding calendar quarter from such retail furnishing of rooms, lodging, or accommodations, the amount of taxes imposed for such period and such other information as the Village Clerk deems necessary. Every person required to file such quarterly return shall also file an annual

return within thirty days of the close of each calendar year. The annual return shall summarize the quarterly returns, reconcile and adjust for errors in the quarterly returns and shall contain such additional information as the Clerk may reasonably require. Such annual returns shall be made on forms as prescribed by the Clerk from time to time. All such returns shall be signed by the person required to file a return or duly authorized agent but need not be verified by oath. The Clerk may, for good cause, extend the time for filing any return, but in no event longer than one month from the filing due date.

(4) PERMIT REQUIRED.

(a) Every person furnishing rooms or lodging as described in sub. (2), other than a lodging marketplace as defined in §66.0615(1)(bs), Wis. Stats. that has registered with the Wisconsin Department of Revenue as provided in §66.0615(5)(a), Wis. Stats., shall annually file with the Village Clerk an application for a permit for each place of business within the Village where such rooms or lodging are provided. Every application for a permit shall be made upon a form prescribed by the Clerk and shall set forth the name under which the applicant transacts or intends to transact business, the location of each transient lodging facility, and such other information as the Clerk reasonably requires. The application shall be signed by the owner, if a sole proprietor, and if not a sole proprietor, by the person authorized to act on behalf of such owner(s).

(b) Upon receipt of a complete application as provided in par. (a) the Clerk shall grant and issue to each applicant a separate permit for each place of business within the Village. Such permit is not assignable and is valid only for the person in whose name it is issued and for the transaction of business at the place designated therein. It shall at all times be conspicuously displayed at the place for which issued.

(c) At the time of filing of the application for a permit under this section, the applicant shall pay an application fee of \$75.00 therewith, which fee is non-refundable.

(d) Whenever any person fails to comply with this section, the Village Clerk may, upon ten days' notification and after affording such person the opportunity to show cause why his/her permit should not be revoked, suspend any and all of the permits held by such person. The Clerk shall give to such person written notice of the suspension or revocation of any of his/her permits. The Clerk shall not issue a new permit after the revocation of a permit unless he/she is satisfied that the former holder of the permit will comply with the provisions of this section. A fee of \$50.00 shall be imposed for the renewal of issuance of a permit that has been previously suspended or revoked.

(5) LIABILITY FOR TAX. If any person liable for any amount of tax under this section sells out his or her business or stock of goods or quits the business, his or her successors or assigns shall withhold sufficient amounts of the purchase price to cover such amount due under this section until the former owner produces a receipt from the Village Clerk that it has been paid or a certificate stating that no amount is due. If a person subject to the tax imposed by this section fails to withhold such amount of tax from the purchase price as required, he or she shall become personally liable for payment of the amount required to be withheld by him or her to the extent of the value of the accommodations purchased.

(6) AUDIT.

(a) The Village Clerk may, by office audit, determine the tax required to be paid to the Village or the refund due to any person under this section. This determination may be made upon the basis of facts contained in the return being audited or on the basis of any other information within the Clerk's possession or obtained pursuant to §66.0615(2), Wis. Stats. One or more such office audit determinations may be made of the amount due for any one, or for more than one, period.

(b) The Village Clerk may, by field audit, determine the tax required to be paid to the Village, or the refund due to any person under this section. The determination may be made upon the basis of the facts contained in the return being audited or upon any other information within the Clerk's possession or obtained pursuant to §66.0615(2), Wis. Stats. The Clerk is authorized to examine and inspect the State sales tax records, and memoranda, of any person in order to verify the tax liability of that person or of another person. Nothing herein shall prevent the Clerk from making a determination of tax at any time.

(c) Any person subject to sub. (3) who fails to comply with a request to inspect and audit the person's financial records under paragraph (a) or (b) shall be subject to a forfeiture of \$500 or 5% of the tax due under this section, whichever is less.

(7) FAILURE TO FILE RETURN; ESTIMATED TAX. If any person fails to file a return as required by this section, the Clerk shall make an estimate of the amount of the gross receipts under sub. (2). Such estimate shall be made for the period for which such person failed to make a return and shall be based upon any information which is in the Clerk's possession or may come into the Clerk's possession. On the basis of this estimate, the Clerk shall compute and determine the amount required to be paid to the Village. The tax determined pursuant to this subsection shall be deemed to have been due on the date the return and tax were to have been filed with the Village.

(8) UNPAID TAXES; INTEREST; FORFEITURES. (a) All unpaid taxes under this section shall bear interest at the rate of one percent (1.0%) per month from the date due of the return until the first day of the month following the month in which the tax is paid to the Village Clerk. An extension of time within which to file a return shall not operate to extend the due date of the return for purposes of interest computation.

(b) Delinquent tax returns shall be subject to a late filing fee of \$75.00, which fee may be changed from year to year by resolution duly adopted by the Village Board.

(c) The tax imposed by this section shall be considered as delinquent if not paid:

1. In the case of a timely filed return, within thirty (30) days after the due date of the return or within thirty (30) days after the expiration of an extension period, if one has been granted; or,

2. In the case of no return filed or a return filed late, by the due date of the return.

(d) If any tax due hereunder, including taxes determined under sub. (7), shall fail to be paid when due, then in such event, the person obligated to pay over the same shall pay a forfeiture in an amount not to exceed 25% (twenty-five percent) of the room tax due for the

previous calendar year (or the current year if the Village Board is able to determine in its best judgment, the anticipated amount thereof), or \$5,000.00, whichever is less.

(e) If a person fails to file a return when due, for any reason, or files a false or fraudulent return with intent in any case to defeat or evade the taxes imposed by this section, the person shall pay a forfeiture of \$500.00 per day for each day said return is not so filed or remains on file containing the false or fraudulent information without a correction thereof.

(9) RECORDS.

(a) Every person liable for the tax imposed by this section shall keep or cause to be kept such records, receipts, invoices and other pertinent papers in such form as the Village Clerk requires. Records shall be retained and available to the Clerk for a period of five years after date of filing of the annual return under sub. (3) covering the records in question.

(b) All tax returns, schedules, exhibits, writings or audit reports relating to such returns, on file with the Clerk are deemed to be confidential, except the Clerk may divulge their contents to the following, and no others:

1. The person who filed the return;
2. Officers, agents or employees of the U.S. Internal Revenue Service or the Wisconsin Department of Revenue;
3. Officers or agents of the Village of DeForest as may be necessary in the performance of their duties;
4. To any person pursuant to a valid order of a court.

(10) CONFIDENTIALITY. No person having any administrative duty under this section shall make known in any manner the business affairs, operations or information obtained by an investigation of records of any person who is required to pay the tax as imposed by this section, or the amount or source of income, profits, losses, expenditures or any particular thereof set forth or disclosed in any return, or to permit any return or copy thereof to be seen or examined by any person, except as provided in sub. (9)(b) and except as set forth in §66.0615(3), Wis. Stats. Persons violating this section may be required to forfeit not less than \$100.00 or more than \$500.00.

(11) VIOLATIONS; PENALTIES.

(a) Any person who is subject to the tax imposed by this section, who fails to obtain a permit as required by sub. (4) or who violates any other provisions of this section for which a specific penalty or forfeiture is not set forth above, shall be subject to a forfeiture as prescribed in sec. 20.04 of this Code. Each day, or portion thereof, that such violation continues is hereby deemed to constitute a separate offense.

(b) Any delinquent amounts owed may be placed upon the tax rolls for collection, or may be collected in a civil action brought by the Village.

[Sec 2.08 Cr. in Am. 03-14, Eff. 4-10-03; Am. 20-07, Eff. 3-13-20]

2.09 GARBAGE/RECYCLING COLLECTION CHARGES FOR TAX EXEMPT PARCELS. Any parcel of real estate that is exempt from general property taxes, but which receives garbage and recycling collection services from the Village shall be assessed a special charge equal to the current annual fee charged by the contractor plus a \$25.00 surcharge for expenses relative to billing and collection of these charges. The fee shall cover a period from July 1st of each year thru June 30th of following year, and shall be payable on or before June 1 of the beginning of a service year.

[Cr. 01-29, Eff. 7-5-01, renum. by revisor]

2.10 FEE FOR CHECKS RECEIVED AS INSUFFICIENT OR UNCOLLECTIBLE FUNDS. A service charge of \$25.00 shall be charged for each check received by the Village which is returned unpaid after deposit due to insufficient or uncollectible funds in the account on which the check is drawn. A service charge of \$25.00 shall also be charged for failed ACH payments and all other failed electronic payments to the Village due to insufficient funds. A closed account shall be considered to have insufficient funds under this section.

[Cr. 01-29, Eff. 7-5-01, renum. by revisor; Am. 17-39, Eff. 12-29-17]

2.11 CHARGES FOR USE OF VILLAGE EQUIPMENT. The Village Board shall, from time to time, establish by resolution a schedule of charges for the use of equipment owned by the Village. The charges shall be based on a reasonable estimate of the cost to the Village of owning, maintaining, transporting, operating, storing, insuring and replacing such equipment and shall be applied in determining the amount to be charged in all cases where any ordinance, contract, resolution or order of the Village Board provides for the recovery by the Village of costs incurred in abating any nuisance, correcting any condition or making any improvement to public or private property, or remedying any violation of Wisconsin law or this Code. Such resolution may also establish a rate for the services of Village officers and employees in operating such equipment and supervising the activities for which the charges are imposed.

[Am. 03-13, Eff. 4-10-03]

2.12 FEES FOR TAX EXEMPTION REPORTS. All tax exemption reports filed with the Village Clerk shall be accompanied by a filing fee equal to fifteen dollars (\$15.00) for each parcel reported. The Clerk is authorized to reject any report for which an appropriate filing fee is not paid. The fee imposed by this section shall not apply to any church required to file such a report pursuant to §70.337(1), *Wis. Stats.*

[Cr. 94-4, Eff. 1-17-94, renum. by revisor; Revisor's note: Last sentence added by revisor to comply with §70.337(5) as amended by 1999 Wis. Act. 9.]

2.13 CONVENIENCE FEE FOR ELECTRONIC PAYMENTS. Any person electing to make any payment to the Village which is authorized to be made by credit card, automated cash withdrawal or other internet-based system shall, as a condition of utilizing such payment method, pay a convenience fee as follows:

(a) Payments for utility bills, licenses and permits – 2.75% of the amount paid, plus \$0.50 if the total payment is under \$100.00;

(b) Payments for recreation program fees and park reservations – 3.50% of the amount paid plus \$0.30 per transaction.

[Cr. 08-24, Eff. 6-16-08; Am. 08-42, Eff. 11-04-08; Am. 11-24, Eff. 8-2-11; Am. 13-18, Eff. 8-21-13; Am. 19-012, Eff. 6-18-19]

2.14 DISPOSAL OF ABANDONED PROPERTY.

(1) AUTHORITY. The Chief of Police shall have the authority to dispose of any personal property which has been abandoned, or which has remained unclaimed for more than thirty (30) days after the department has taken possession of the property, as provided in this section. The Chief may delegate his or her authority under this section to any officer of the department.

(2) EVIDENCE. This section shall not apply to any property collected or being held as evidence in any criminal investigation or prosecution.

(3) FLAMMABLE, EXPLOSIVE OR OTHERWISE DANGEROUS MATERIALS. Flammable, explosive or incendiary substances, materials or devices that pose a danger to life or property in their storage, transportation, or use may be disposed of immediately upon the taking of possession by the department. In the case of such materials having a commercial value in normal usage and which do not pose an immediate threat to life or property, the Chief shall make a reasonable attempt to return the materials to their rightful owners, if known. Any such materials not returned to their owners under this subsection shall be disposed of in any manner the Chief shall determine to be safe, efficient and economical.

(4) WEAPONS AND AMMUNITION. The Chief may, on behalf of the Village, retain or dispose of abandoned, unclaimed or seized dangerous weapons or ammunition in accordance with §968.20, Wis. Stats.

(5) PUBLIC SALE. Except as provided in subs. (2) or (3), the Chief may dispose of any abandoned or unclaimed personal property in accordance with this subsection.

(a) Public Auction. Except as provided in par. (b) all items subject to disposal under this subsection shall be sold to the highest bidder through a public sale. Public sales shall include public auctions, including "silent" auctions, solicitation for written bids, or any other method which provides the general public reasonable notice and an opportunity to acquire the property by paying more than any other purchaser. Notice of sale, including the time and place of the sale, if applicable, and the method by which the sale shall be conducted, shall be published as a Class 3 notice in the official newspaper. Notwithstanding the foregoing, the Village Administrator may authorize or require an alternative or additional method or methods of public notification.

(b) Summary Disposal. Any property remaining unsold after a public sale held according to par. (a), and any property for which the Village Administrator shall determine the probable costs of selling a public sale is likely to exceed the purchase price that will be received for the property, may be donated to any non-profit organization organized under §§501(a) or 501(c)3 of the Internal Revenue Code, or disposed of at an appropriate recycling or waste facility.

(6) REPORT OF DISPOSITION. The Chief of Police shall make and preserve an accurate record of any sale or other disposition of personal property under this section, including an inventory of all property disposed of, the date and method of disposition, the consideration received, and the name and address of the purchaser or other recipient of the property. Each such record shall be filed within ten (10) days after the disposition with the Village Finance Director, and kept as a public record for at least two (2) years from the date of disposition. The proceeds of any disposition, after deducting the necessary expenses of

keeping and disposing of the property shall be remitted to the Finance Director, at the time of filing the corresponding report, for deposit into the Village treasury.

[Cr. 11-13, Eff. 4-19-11]

CHAPTER 3

TRAFFIC CODE

3.01 STATE TRAFFIC LAWS ADOPTED	3-1
3.02 PROHIBITED SIGNS, SIGNALS, AND MARKERS	3-1
3.021 HEAVY TRAFFIC ROUTES [Cr. 16-27, Eff. 08-26-16]	3-2
3.03 SPEED LIMITS	3-4
3.04 THROUGH HIGHWAYS DESIGNATED.....	3-6
3.05 ONE-WAY STREETS	3-7
3.06 PARKING REGULATIONS	3-7
3.061 STAYING UPON MEDIAN RESTRICTED [Cr. 18-14, Eff. 8-30-18].....	3-13
3.062 LIABILITY OF VEHICLE OWNER.....	3-14
3.065 STAYING UPON MEDIAN RESTRICTED	3-14
3.07 ABANDONED VEHICLES	3-14
3.08 ACCIDENT REPORTS	3-16
3.09 DISPLAY OF POWER OR SPEED PROHIBITED	3-16
3.095 USE OF COMPRESSION BRAKES PROHIBITED	3-16
3.10 TRAFFIC AND PARKING REGULATIONS ON SCHOOL DISTRICT GROUNDS	3-17
3.105 SCHOOL BUS WARNING LIGHTS [Cr. 13-04, Eff. 02-29-13]	3-17
3.11 SNOWMOBILES AND OTHER OFF-HIGHWAY VEHICLES	3-17
3.115 NEIGHBORHOOD ELECTRIC VEHICLES	3-20
3.118 VEHICLES PROHIBITED ON PUBLIC TRAILS	3-21
3.12 PENALTIES	3-22
3.13 ENFORCEMENT	3-24
3.14 REFERENCES TO WISCONSIN STATUTES.....	3-25

3.01 STATE TRAFFIC LAWS ADOPTED. Except as otherwise specifically provided in this chapter, the statutory provisions in Chs. 340 to 348, *Wis. Stats.*, describing and defining regulations with respect to vehicles and traffic, exclusive of any provisions therein relating to penalties to be imposed and exclusive of any regulations for which the statutory penalty is a fine or term of imprisonment, are hereby adopted and by reference made a part of this chapter as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this chapter. Any future amendments, revisions or modifications of the statutes incorporated herein are intended to be made part of this chapter in order to secure uniform statewide regulation of traffic on the highways, streets and alleys of the State of Wisconsin.

3.02 OFFICIAL TRAFFIC MAP AND CONTROL DEVICES: PROHIBITED SIGNS, SIGNALS AND MARKERS.

(1) **DUTY OF THE CHIEF OF POLICE TO ERECT AND INSTALL UNIFORM TRAFFIC CONTROL DEVICES.** Whenever traffic regulations created by this chapter, including a State of Wisconsin traffic regulation adopted by reference in sec. 3.01, require the erection of traffic control devices for enforcement, the Chief of Police, with the cooperation of the Public Works Department, shall procure, erect and maintain uniform control devices conforming to the Uniform Traffic Control Device Manual promulgated by the Wisconsin Department of Transportation, giving notice of such traffic regulation to the users of the streets and highways on which such regulations apply. Whenever State law grants discretion to local authorities in erecting or placement of a uniform traffic control device,

devices shall be erected in such locations and in such a manner as in the judgment of the Chief of Police will carry out the purposes of this chapter and give adequate warning to users of the streets and highways of the Village.

(2) OFFICIAL TRAFFIC MAP.

(a) Official Traffic Map Established. There is hereby established for the Village of DeForest an Official Traffic Map, dated December 1, 1982, upon which is indicated as of said date, all existing stop signs, arterial intersections, yield signs, speed zones and school crossings and which the laws of the State of Wisconsin require the erection or use of official traffic control devices to enforce such restrictions or limitations. All such restrictions and limitations set forth on said Official Traffic Map are hereby ratified and affirmed.

(b) Additions to Map. The Village Board may from time to time make additions to or deletions from the Official Traffic Map and the Chief of Police shall keep such Official Traffic Map current. Every addition to said Official Traffic Map made after December 1, 1982, shall indicate the number of the authorizing ordinance or resolution and the date the appropriate official traffic control device was erected, and every deletion shall indicate the number of the authorizing ordinance or resolution.

(c) Map to Be Maintained. A copy of the Official Traffic Map shall be maintained and displayed in the Municipal Building. The Chief of Police shall make appropriate authorized changes on said map within three working days after the appropriate official traffic control device is erected or removed, as the case may be.

(d) Violations Prohibited. When official traffic control devices giving notice of the restrictions, prohibitions and limitations shown on the Official Traffic Map are erected and maintained in accordance with the provisions of this section, a violation of the restriction, prohibition or limitation shown on the Official Traffic Map shall be a violation of the provisions of this chapter.

(3) PROHIBITED SIGNS AND MARKERS IN HIGHWAYS. No person other than an officer authorized by this chapter to erect and maintain official traffic control devices, or his designee, shall place within the limits of any streets or highway maintained by the Village any sign, signal, marker, marking or monument unless permission is first obtained from the Chief of Police or State Highway Commission. Any sign, signal, marker, mark or monument placed or maintained in violation of this subsection shall be subject to removal as provided in sub. (4) below.

(4) REMOVAL OF UNOFFICIAL SIGNS, MARKERS, SIGNALS AND TRAFFIC CONTROL DEVICES. The Chief of Police may remove any sign, signal, marker or other device which is placed, maintained or displayed in violation of this chapter or state law. Any charge imposed against premises for removal of a prohibited or illegal sign, signal, marker or device shall be reported by the Chief of Police to the Village Board for review and certification at its next regular meeting following the imposition of the charge. Any charge not paid on or before the next succeeding November 15 shall be placed upon the tax roll for collection as other special municipal taxes.

[Cr. 16-27, Eff. 08-26-16]

3.021 HEAVY TRAFFIC ROUTES.

(1) In this section, "heavy traffic" means all vehicles not operating completely on pneumatic tires and all vehicles or combination of vehicles, other than motor buses, designed or used for transporting property of any nature and having a gross vehicle weight rating of more than 20,000 pounds.

(2) Heavy traffic routes designated. The following streets or parts thereof within the jurisdiction of the Village are designated heavy traffic routes:

[Am. 22-16. Eff. 7-2-2022]

- (a) CTH V from USH 51 to I90/94.
- (b) North and South Main Street from CTH V to Vinburn Road
- (c) Vinburn Road
- (d) North Stevenson from CTH V to Yahara Road
- (e) Burton Boulevard
- (f) Stokely Drive
- (g) Bassett Street.
- (h) Bakke Drive
- (i) River Road
- (j) Innovation Drive
- (k) South Street from S. Main Street to River Road
- (l) North Towne Road
- (m) Bear Tree Pkwy from North Towne Rd to Pederson Crossing Blvd.
- (n) Pederson Crossing Boulevard
- (o) Reardon Road and Loftus Road
- (p) Meridian Drive
- (q) Blanchar's Crossing
- (r) Duraform Lane from Blanchar's Crossing to North Towne Road
- (s) Stack Drive
- (t) Williamsburg Way
- (u) Savannah Dr. to the west from Williamsburg Way
- (v) Holum Street from North Towne Road to Main Street 2
- (w) Market Street from Holum St to E. Elm Street
- (x) Commerce Street
- (y) Shonkoo Way
- (z) Little Potato Way
- (aa) Holiday Court
- (bb) Tierney Crossing
- (cc) Dalmore Road
- (dd) Liuna Way
- (ee) Evco Circle

(3) Prohibited routes. Heavy traffic is prohibited from using any Village street or highway not designated as a heavy traffic route. This paragraph does not apply to the following:

(a) Vehicles driven for the purpose of obtaining orders for supplies or moving or delivering supplies or commodities to or from any place of business or residence that can only be accessed from a street or highway not designated as a heavy traffic route;

- (b) Vehicles traveling for the purpose of repair or maintenance of electric, gas or water or sewer service operated by a public utility;
- (c) Vehicles operated for emergency purposes by a fire department or other governmental agency;
- (d) Village streets or highways over which are routed state trunk highways;
- (e) Vehicles for recreational use;
- (f) Vehicles transporting construction equipment to or from a site in the Village for which a building or right of way permit is currently in effect; and,
- (g) When otherwise directed by a traffic control officer or official traffic sign.

(4) Administration. The Director of Public Services, in cooperation with the police department, shall administer this section. Administration shall include the following:

- (a) Posting of signs. Appropriate signs shall be posted giving notice of this section and of the heavy traffic routes established in this section. Yellow signposts may also be used to designate heavy traffic routes.
 - (b) Maps. Heavy traffic routes shall be shown on the official traffic map.
 - (c) The Director of Public Services or the Chief of Police may temporarily have heavy traffic redirected to a street or highway not designated as a heavy traffic route in the event of street or utility repairs, or in the event of a snow, traffic or other emergency.
- (5) Liability. Any operator, corporation, owner or agent whose heavy traffic vehicle damages any village street or highway in violation of this section shall be liable and required to pay the Village the cost of repair or replacement of the damaged street or highway.

(6) Special and seasonal weight limitations. The Director of Public Services shall have the authority to impose special or seasonal weight limits on any highway, bridge or culvert maintained by the Village to prevent injury to the roadway or for the safety of the users of such bridge or culvert and shall be responsible for erecting uniform traffic control devices giving notice thereof.

(7) Penalty. In addition to liability caused by violation of this section, anyone violating the provisions of this section shall pay a forfeiture of not more than \$500 for first offense, and a forfeiture of not more than \$1,000 for a second or greater offense made within any twelve month period.

3.03 SPEED LIMITS. The Village Board hereby determines that the statutory speed limits on the following streets or portions thereof are unreasonable, unsafe and imprudent and modifies such speed limits as follows:
[Am. 92-23, Eff. 6-7-93]

(1) SPEED LIMITS MODIFIED. Speed limits are modified from the statutory speed limit as follows upon the following designated streets or portions thereof:
[Am. 92-23, Eff. 6-7-93; Am. 17-31, Eff. 9-29-17]

(a) To 35 Miles Per Hour.

1. On West North Street (CTH V).
2. On East North Street (CTH V).
[Am. 92-23, Eff. 6-7-93]
3. On River Road from West North Street (CTH V) to Windsor Road.
[Cr. 94-39, Eff. 9-6-94; Am. 21-26, Eff. 9-17-21]
4. On North Stevenson Street, from 600 feet north of East North Street (CTH V) north to the Village limits.
[Cr. 96-17, Eff. 4-19-96; Am. 97-33, Eff. 10-10-97]
5. On Vinburn Road.
[Am. 00-32, Eff. 8-20-00]
6. On North Towne Road, from East North Street (CTH V) to 850 feet south of Vinburn Road.
[Am. 21-20; Eff 8-27-21]
7. On Windsor Road from River Road to a point 100 feet west of Highland Drive.
8. On Pederson Crossing Boulevard.
9. On Reardon Road.
10. On Windsor Road from Pederson Crossing Blvd. to Highway 51.
[Am. 21-26, Eff. 9-17-21]
11. On Old River Road.
[Cr. 21-26, Eff. 9-17-21]

(b) To 40 Miles Per Hour.

1. On South Main Street (CTH CV) from Oak Springs Circle to Gray Road.

(c) To 45 Miles Per Hour.

1. On North Towne Road from 500 feet south of East Holum Street to Gray Road.
2. [Repl. 21-26, Eff. 9-17-21].
3. On Highway 19 from North Towne Road to Liuna Way (East Entrance).

(d) To 55 Miles Per Hour.

1. On U.S. Highway 51.
2. On Highway 19 from North Towne Road to East Village Limits.

3. On Highway 19 from Liuna Way (East Entrance) to West Village Limits.
[Am. 92-23, Eff. 6-7-93]

(2) SCHOOL CROSSINGS. The following intersections are designated as school crossings:

- (a) Across Stevenson Street at its intersection with East Holum Street.
- (b) Across East Holum Street at its intersection with Washington Street.
- (c) Across East Holum Street at its intersection with Halsor Street.
- (d) Across Columbia Avenue at its intersection with Madison Street.
- (e) Across Southbound Drive at its intersection with Jefferson Street.
- (f) Across South Cleveland Avenue at its intersection with Jefferson Street.
- (g) Across Yorktown Road at its intersection with Rauls Trace.
- (h) Across Yorktown Road at its intersection with Constitution Lane.
- (i) Across Southbound Drive at its intersection with Burl Oak Drive.
- (j) Across Southbound Drive at its intersection with Country Clover Drive.
- (k) Across Trailside Drive at its intersection with Lexington Parkway.
- (l) Across Lexington Parkway at its intersection with Old Indian Trail.
- (m) Across Old Indian Trail at its intersection with Seminole Way.
- (n) Across Renata Court at its intersection with Bruns Street.
- (o) Across Southbound Drive at its intersection with Constitution Lane.
- (p) Across DeForest Street at its intersection with South Halsor Street.
- (q) Across DeForest Street at its intersection with South Cleveland Avenue.
- (r) Across Trailside Drive at its intersection with Hilltop Drive.

[Am. 92-23, Eff. 6-7-93; Am. 17-31, Eff. 9-29-17]

3.04 THROUGH HIGHWAYS DESIGNATED.

(1) In the interest of public safety and pursuant to the authority granted by Wisconsin law, the following highways or portions thereof are declared to be through highways:

- (a) Holum Street, except at Main Street and U.S. Highway 51.

- (b) Columbia Avenue between Stevenson Street and Cleveland Street.
- (c) Yahara Street east of Stevenson Street.
- (d) North Street (County Trunk Highway V).
- (e) South Street west of Main Street.
- (f) Main Street, except at Holum and North Streets.
- (g) Market Street between Holum Street and Murray Street.
- (h) Stevenson Street north of Holum Street to North Street.
- (i) Cleveland Street between Holum Street and Yahara Street.
- (j) Acker Parkway between Main Street and River Road.
- (k) Riverwood Bend between South Street and Harvard Drive.

(2) DESIGNATION OF LOCATION OF STOP AND YIELD SIGNS. In the interest of public safety, the Village Board, by resolution, has designated the location of stop and yield signs within the village and has ordered the installation of such signs. In addition, the location of such signs is indicated on the Official Traffic Map of the Village pursuant to sec. 3.02 of this chapter.

(3) OPERATORS TO OBEY TRAFFIC CONTROL DEVICES. Every operator of a vehicle approaching an intersection at which an official traffic control device is erected in accordance with this section shall obey the direction of such official traffic control device as required by the Wisconsin Statutes incorporated by reference in sec. 3.01 of this chapter. Operators of vehicles approaching a stop sign shall stop before entering a highway as required by §346.46, *Wis. Stats.* Operators approaching intersections at which a yield sign has been installed shall yield the right of way to other vehicles as required by §346.18(6), *Wis. Stats.*

3.05 ONE WAY STREETS. The following streets are designated one-way streets and no vehicle shall travel in any direction thereon except as indicated:

[Am. 92-23, Eff. 6-7-93]

- (1) On Pleasant View Street from South Main Street to Market Street.
- (2) On Park Avenue from Madison Avenue to North Cleveland Avenue.
[Am. 92-23, Eff. 6-7-93]
- (3) On Norsk Court from South Main Street through the entire west/east segment of Norsk Court.
[Cr. 14-33, Eff. 12-12-14]

3.06 PARKING REGULATIONS.

(1) PARKING PROHIBITED AT ALL TIMES. No person shall at any time park or leave standing any vehicle, upon any of the following highways or parts of highways:

[Am. 93-28, Eff. 7-19-93]

(a) On the north side of the 300 block of Holum Street, directly across from the Fire Station, as posted.

(b) On the 600 and 700 block of South Main Street, both sides of the highway.

(c) On Holiday Court, except that parking is permitted on the north side of the street between the hours of 5:00 a.m. and 10:00 p.m. for vehicles other than semi-trucks with trailers.

[Am. 93-28, Eff. 7-19-93; Am. 17-34, Eff. 10-27-17; Am. 22-13, Eff. 5-16 22]

(d) On the South Side of Jefferson Street, from the western entrance to the High School parking lot, thence 10 feet west.

[Cr. 94-42, Eff. 9-19-94]

(e) On the South Side of Jefferson Street, from the western entrance to the High School parking lot, thence 10 feet west.

[Cr. 94-42, Eff. 9-19-94]

(f) On Acker Parkway, at the intersection with North Main Street to a point 156 west, both sides of the road.

[Cr. 96-10 (renumbered in codification), Eff. 2-23-96]

(g) On the North side of Yellowwood Lane from Innovation Drive to Conservancy Plaza.

(h) On the South side of Redspire Lane from Innovation Drive to Conservancy Plaza.

[Am. 16-35, Eff. 9-30-16]

(i) Along the East side of Outlot 4, Acker Park-First Addition Subdivision, along its entire length from Acker Parkway south to the Western Green Park parking lot.

[Pars. (g)-(i) Cr. 09-26, Eff. 8-21-09]

(j) On the south side of Ethun Place at the intersection of Ethun Place and Norsk Court, 15 feet west from the western edge of the intersection, and 14 feet east from the eastern edge of the intersection.

[Par. (j) Cr. 14-32, Eff. 12-12-14]

(k) On Innovation Drive from the western edge of the intersection with Village Walk Lane to 150 feet northeast of the northeastern edge of the intersection with Redspire Lane, both sides of the highway.

[Par. (k) Cr. 15-18, Eff. 5-15-15]

(L) On the east and west sides of North Towne Road, from East North Street (CTH V) to Vinburn Road, except that parking is permitted on a portion of the west side of North Towne Road commencing 850 feet south of its intersection with East Holum Street, and running to an end point 1325 feet north of its intersection with Vinburn Road, except during the hours of 7:30 a.m. to 3:30 p.m. on official school days.

[Par. (L) Cr. 15-25, Eff. 5-29-15]

(m) On the North side of Redspire Lane, from a point 200 feet west of Conservancy Plaza, to a point 230 feet west of Conservancy Plaza.

[Am. 16-35, Eff. 9-30-16]

(n) On South Stevenson Street from DeForest Street to Jefferson Street.
[Par. (n) Cr. 17-36, Eff. 12-29-17]

(o) On Liuna Way.
[Par. (o) Cr. 18-13, Eff. 6-28-18]

(p) On Pederson Crossing Boulevard.
[Par. (p) Cr. 19-006, Adopted 4-16-2019]

(q) On Jefferson Street from North Towne Road easterly to Bruns Street, on both sides of the street.
[Cr. Ord21-14, Eff. 7-30-21]

(r) On River Road.
[par. (r) Cr. 19-011, Eff. 9-27-19]

(s) On Windsor Road
[par. (r) Cr. 19-011, Eff. 9-27-19]

(t) On Innovation Drive, from a point 686 feet east of Larkspur Lane to a point 15 feet east of Tuscan Ridge Circle.
[Cr. 20-21; Eff. 8-28-20]

(u) On the east side of Bassett Street from its intersection with Bakke Drive to a point 278 feet south.
[Cr. 22-24, Eff. 9-17-22]

(2) PARKING PROHIBITED AT CERTAIN TIMES. No person shall park or leave standing any vehicle between the hours of 7:30 A.M. and 4:30 P.M. on official school days, upon any of the following highways or parts of highways:
[Am. 93-28, Eff. 7-19-93]

(a) On the north side of Jefferson Street from Bruns Street west to South Halsor Street.

[Am. 02-16, Eff. 5-9-02]

(b) On the either side of South Halsor Street from DeForest Street to Jefferson Street.

[Am. 94-42, Eff. 9-19-94]

(c) On Evergreen Circle.
[Am. 93-28, Eff. 7-19-93]

(e) On Renata Court.
[Am. 95-50, Eff. 10-16-95]

(f) On the west side of Bruns Street, from East Holum Street to Jefferson Street.
[Cr. 97-39, Eff. 12-5-97]

(g) On the south side of Jefferson Street from Bruns Street west to the St. Olaf's Church property.
[Cr. 01-01, Eff. 1-18-01]

(h) On the east side of Bruns Street from the driveway at 303 Bruns Street south to the entryway of the DeForest High School east driveway.

[Cr. 02-16, Eff. 5-9-02]

(i) On the west side of Southbound Drive from the driveway of 324 Southbound to Rosemal Lane.

[Cr. 11-37, Eff. 12-30-11]

(2a) ADDITIONAL PARKING LIMITATIONS AT CERTAIN TIMES. No person shall park or leave standing any vehicle between the hours of 7:30 A.M. and 8:30 A.M., nor between the hours of 2:30 P.M. and 3:30 P.M. on official school days upon any of the following highways or parts of highways:

[Am. 15-30, Eff. 6-12-15]

(a) On the east side of North Cleveland Street between East Holum Street and Columbia Avenue.

[Am. 05-02, Eff. 1-20-05; Am. 15-30; Eff. 6-12-15]

(b) On a portion of the south side of East Holum Street, commencing at a point 543 feet west of the intersection with South Cleveland Street, and running to an end point 86 feet west. This restriction does not apply to school buses.

[Am. 15-30, Eff. 6-12-15]

(c) On a portion of the west side of North Johnson Street, commencing at the intersection with East Holum Street, and running to an end point 160 feet north of East Holum Street.

[Par. (c) Cr. 17-35, Eff. 10-27-17]

(2b) ADDITIONAL PARKING LIMITATIONS AT CERTAIN TIMES. No person shall park or leave standing any vehicle between the hours of 7:30 A.M. and 8:30 A.M., nor between the hours of 2:30 P.M. and 3:30 P.M., on official school days upon any of the following highways or parts of highways:

(a) On the east side of North Cleveland Street between East Holum Street and Columbia Avenue.

(b) On a portion of the south side of East Holum Street, commencing at a point 543 feet west of the intersection with South Cleveland Street, and running to an end point 86 feet west. This restriction does not apply to school buses.

[Am. 12-01, Eff. 1-13-12; Am. 15-30]

(2c) SEASONAL PARKING RESTRICTIONS. No person shall park or leave standing any vehicle at any time between the dates of November 15th through April 1, inclusive, upon any of the following highways or parts of highways:

(a) On West Holum Street west of the westerly curb line of Reigstad Street extended northerly.

[Cr. 12-34, Eff. 12-28-12; Renumbered by revisor]

(2d) ADDITIONAL SEASONAL PARKING RESTRICTIONS. No person shall park or leave standing any vehicle at any time between the dates of April 1 and November 15, inclusive, upon any of the following highways or parts of highways:

(a) On the South Side of South Street from River Road easterly to Sunnybrook Drive.

[Cr. 21-10, Eff. 4-30-21]

(3) LIMITED TIME PARKING. No person shall park or leave standing any vehicle on any street or portion thereof identified in this subsection for a period in excess of the time limited herein.

[Am. 93-23, Eff. 7-19-93]

(a) Two Hour Parking.

1. On the east side of North Durkee Street, from Columbia Avenue, 100 feet to the south.

[Sub. (a) repl. and sub. (b) renum.: 97-30, Eff. 10-10-97]

(3a) LOADING AND UNLOADING ZONE. No person shall park or leave standing any vehicle, except for the purpose of actively loading or unloading persons or property, but in no case for a period of time longer than thirty minutes, on a part of the south side of East Holum Street, from a point 35 feet west from Library Street, to a point 80 feet west from Library Street.

[Cr. 16-09, Eff. 4-15-16]

(4) LIMITED TIME PARKING DURING CERTAIN TIMES. No person shall park or leave standing any vehicle between the hours of 7:30 A.M. and 4:30 P.M. on official school days, on any street or portion thereof identified in this subsection for a period in excess of the time limited herein.

[Am. 93-28, Eff. 7-19-93]

(a) Fifteen Minute Parking.

1. On the South side of Jefferson Street, from the intersection with Bruns Street, thence 250 feet west.

[Am. 93-28, Eff. 7-19-93; 97-39, Eff. 12-5-97]

2. On the north side of East Holum Street from a point 200 feet west of North Cleveland Avenue to a point 287 feet west of North Cleveland Avenue.

[Am. 97-27, Eff. 7-25-97]

(b) One Hour Parking.

1. On the south side of Jefferson Street from a point 445 feet east of South Cleveland Avenue, thence 145 feet east.

[Am. 97-29, Eff. 10-10-97]

(4a) PARKING LIMITATIONS ON N. LEXINGTON PARKWAY DURING SCHOOL HOURS. The following restrictions apply between the hours of 7:30 A.M. and 3:30 P.M. on official school days:

[Cr. 14-30, Eff. 10-17-14]

(a) No person shall park or leave standing any vehicle on the south side of N. Lexington Parkway from Eagle Nest Lane to Old Indian Trail.

(b) No person shall park or leave standing any vehicle on the north side of N. Lexington Parkway from Old Indian Trail to Eagle Nest Lane except as follows:

1. Vehicles may be stopped between the entrance and exit of the circle drive in front of Yahara Elementary School in order to drop students off or to pick students up from school.
2. School buses may be parked between the exit of the circle drive in front of Yahara Elementary School and Eagle Nest Lane.

(5) PARKING OF VEHICLES RESTRICTED.

(a) No person owning or having control of any truck, trailer, truck power unit, tractor, bus, or recreation vehicle in excess of 10,000 pounds gross weight or over 16 feet in length, or having an enclosed height of more than 8 feet from the roadway, shall park such vehicle upon any street, avenue or public way in the Village between the hours of 6:00 p.m. and 7:00 a.m. except that parking of such equipment overnight can be allowed as long as there is a valid building permit in effect and/or a valid contract with the Village or a utility in effect and that the equipment parked on site is related to the work under construction. Such parking shall be at or within a reasonable distance of the location of the work and must have the approval of the Director of Public Services or the Chief of Police.

[Am. 95-52, Eff. 11-10-95; Am. 15-33, Eff. 07-07-15]

(b) The provisions of this subsection shall not be deemed to prohibit the lawful parking of such equipment upon any street, avenue, or public way in the Village for the actual loading or unloading of goods, wares, or merchandise, providing, however, the loading or unloading shall be limited to the actual time consumed in such operation.

[Am. 95-52, Eff. 11-10-95]

(6) PARALLEL PARKING EXCEPTIONS. Except as provided in this subsection, all vehicles shall be parked parallel to the edge of the street headed in the direction of travel of the nearest traffic lane.

[Am. 93-28, Eff. 7-19-93]

(a) Angle parking is permitted only at the following locations.

1. On the east side of Market Street between Holum Street and Commerce Street.
2. On the East side of North Main Street from its intersection with East North Street to a point 130 feet north of such intersection.

[Am. 93-28, Eff. 7-19-93]

(b) Perpendicular parking is only permitted at the following locations:

1. On the east side of North Main Street from a point four (4) feet north of its intersection with the Community Center driveway, thence 180 feet north.
2. On the west side of North Durkee Street from the intersection with East Holum Street thence 150 feet north.

[Am. 93-28, Eff. 7-19-93]

(c) Nothing in this subsection shall be construed to permit parking within or nearer to any crosswalk, intersection, driveway or other location that is authorized by state law.

[Am. 93-28, Eff. 7-19-93]

(7) No person shall park or leave standing any motor vehicle having a gross vehicle weight of more than 8,000 pounds with its motor or any refrigerator unit running for more than 10 minutes within 300 feet of any residence in the Village between the hours of 10:00 p.m. and 7:00 a.m. except for such time as is reasonably necessary for loading or unloading such vehicle.

[Cr. 04-41, Eff. 12-20-04]

(8) WINTER PARKING RESTRICTIONS.

(a) No person shall park a motor vehicle, trailer, or any other moveable equipment on any street in the Village of DeForest between 12:00 midnight and 6:00 a.m., from November 15 to April 1 of each year, except that vehicles may be parked on the even house numbered sides of the streets between 12:00 midnight and 6:00 a.m. on even-numbered days of the month, and on odd house numbered sides of the street on odd-numbered days of the month.

(b) For purposes of this section, parking is defined as leaving a motor vehicle, trailer or equipment, or permitting any of the foregoing to remain, on a street unattended, but shall not include the temporary stopping of:

(i) Police, fire or other emergency vehicles so marked.

(ii) Business vehicles while being used for the active delivery or pick-up of goods, equipment or merchandise while the motor is running.

[Cr. 12-02, Eff. 1-27-12]

(9) PARKING SPACES FOR COMPACT CARS AND SMALLER VEHICLES.

(a) As used in this section, "compact car" means a passenger car with a length of fifteen feet or less.

(b) The three parking spaces located directly in front of 142 Market Street shall be for compact cars and smaller vehicles only during times in which an outdoor seating area adjacent to these parking spaces is lawfully permitted by the Village of DeForest. Counting north from the intersection of Commerce and Market Streets, these parking spaces are the 5th, 6th and 7th parking spaces on the west side of Market Street.

[Cr. 12-12, Eff. 8-17-12; renumbered by revisor].

3.061 TEMPORARY PARKING RESTRICTIONS.

[Cr. 22-15, Eff. 7-2-2022]

(1) AUTHORITY OF CHIEF OF POLICE TO RESTRICT PARKING. In addition to the restrictions imposed by state law and other provisions of this Chapter, the Chief of Police may temporarily prohibit, limit or restrict the parking, stopping or standing of vehicles on highways within the jurisdiction of, and on any other property owned by, the Village where the Chief determines that the public health, safety and welfare will be promoted thereby. Such regulations shall be enforceable when official traffic signs or pavement markings have been placed or erected providing notice of the particular prohibition, limitation, or restriction. No such regulation shall remain in effect for a period of more than 14 days unless extended with the approval of the Village Board.

(2) AUTHORITY OF DIRECTOR OF PUBLIC SERVICES TO RESTRICT PARKING. The Village Administrator or Director of Public Services may temporarily prohibit, limit, or

restrict parking, stopping or standing on any highway or public lands in the Village in order to facilitate the orderly repair or maintenance of streets or public utilities. Such regulations shall be enforceable when official traffic signs or pavement markings have been placed or erected providing notice of the particular prohibition, limitation, or restriction. No such regulation shall take effect more than 48 hours prior to the anticipated commencement of the repair or replacement project, nor remain in effect beyond the final completion date.

3.062 LIABILITY OF VEHICLE OWNER. The owner of any vehicle left parked in violation of the provisions of this Chapter shall be liable for the violation and shall be subject to applicable forfeitures, except that the owner shall not be liable if said owner establishes one of the defenses provided in §346.485(5)(b), Wis. Stats.

[Cr. 22-15, Eff. 7-2-2022]

3.065 STAYING UPON MEDIAN RESTRICTED.

[Renum. 22-15, Eff. 7-2-2022]

(a) **DEFINITIONS.** As used in this section:

1. A "median" is an area not intended for vehicular use dividing a highway into separate lanes of traffic. A "median" also means the area inside a traffic circle not intended for vehicular use.
2. A "highway" is as defined under sec. 340.01(22), Wis. Stats.

(b) **RESTRICTIONS ON STAYING ON MEDIAN.** No person shall be upon a median unless that person is actively in the process of crossing the highway. It is *prima facie* evidence of a violation of this paragraph if a person stays upon the median longer than is necessary to cross the highway in a legal manner.

(c) **EXCEPTIONS TO RESTRICTIONS.** The prohibition in paragraph (b) does not apply to the following:

1. Persons engaged in law enforcement or rescue activities, including providing assistance to an injured person or a disabled vehicle.
2. Injured or disabled persons no capable of crossing the highway.
3. Persons directed by law enforcement, fire department personnel or EMS to stay on a median.
4. Persons engaged in repair or maintenance activities on the highway under the direction of the Village of DeForest, Dane County or the State of Wisconsin.

3.07 ABANDONED VEHICLES.

(1) **ABANDONMENT OF VEHICLES PROHIBITED.** No person shall abandon any vehicle unattended within the Village for such time and under such circumstances as to cause the vehicle to reasonably appear to be abandoned.

(2) DEFINITION. As used in this section "vehicle" means a motor vehicle, trailer, semitrailer or mobile home as defined in sec. 3.01 of this chapter, whether or not such vehicle is registered under Ch. 341, *Wis. Stats.*

(3) PRESUMPTION OF ABANDONMENT. Any vehicle left unattended for more than 48 hours on any public street or grounds, or on private property where parking is prohibited, limited or restricted without the permission of the owner or lessee, is deemed abandoned and constitutes a public nuisance; provided that the vehicle shall not be deemed abandoned under this section if left unattended on private property out of public view, by permission of the owner or lessee.

(4) EXCEPTIONS. This section shall not apply to a vehicle in an enclosed building or a vehicle in an appropriate storage place or depository maintained in a lawful place and manner authorized by the Village.

(5) REMOVAL AND IMPOUNDMENT OR SALE. Any vehicle found abandoned in violation of this chapter shall be impounded by the Police Department until lawfully claimed or disposed of as provided in this section. If the Chief of Police or his duly authorized representative determines that towing costs and storage charges for 10 days, as provided in sub. (6) below, would exceed the value of the vehicle, the vehicle may be junked or sold prior to the expiration of the impoundment period upon determination by the Chief of Police that the vehicle is not wanted for evidence or any other reason; provided that complete vehicles in excess of 19 model years of age shall be sold or disposed of only by auction sale or sealed bid in accordance with sub. (8) below.

(6) MINIMUM IMPOUNDMENT PERIOD. The minimum period of impoundment or storage of a vehicle found in violation of this section shall be 10 days.

(7) NOTICE TO OWNER. The police officer removing or causing the removal of any vehicle found in violation of this section shall immediately notify the Chief of Police of the abandonment and location of the impounded vehicle, and shall within 10 days thereafter notify the owner and lienholders of record, by certified mail, of the impoundment and of their right to reclaim the vehicle. The notice shall set forth the information contained in §342.40(3), *Wis. Stats.*, and shall state that the failure of the owner or lienholders to exercise their right to reclaim the vehicle under this section shall be deemed a waiver of all right, title and interest in the vehicle and a consent to sale of the vehicle.

(8) SALE. Each retained vehicle not reclaimed by the owner or lienholder may be disposed of by sealed bid or auction sale as provided in §342.40(3), *Wis. Stats.*

(9) SALE TO BAR CLAIMS AGAINST VEHICLE. The sale of a motor vehicle under the provisions of this section shall forever bar all prior claims thereto and interest therein except as hereinafter provided.

(10) PURCHASER TO REMOVE VEHICLE. The purchaser of any vehicle on sealed bid or auction sale under sub. (7) above shall have 10 days to remove the vehicle from the storage area upon payment of a storage fee of \$10 for each day the vehicle has remained in storage after the second business day subsequent to the sale date. Ten days after the sale, the purchaser shall forfeit all interest in the vehicle and the vehicle shall be deemed to be abandoned and may be again sold.

(11) REQUEST FOR LIST. Any listing of vehicles to be sold pursuant to this section shall be made available by the Village Administrator to any interested person or organization who makes a written request therefor for a fee of \$1.00.

(12) NOTICE TO DEPARTMENT. Within 5 days after sale or disposition of a vehicle under this section, the Village Administrator shall advise the Wisconsin Department of Transportation of such sale or disposition on a form supplied by the Department.

(13) OWNER MAY FILE. At any time within two years after the sale of a motor vehicle as provided herein, any person claiming ownership of such motor vehicle or a financial interest therein may present a claim to the Village Board setting forth such facts as are necessary to establish such ownership or interest, and that the failure of the claimant to reclaim the vehicle prior to sale was not the result of the neglect or fault of claimant. If the Village Board is satisfied as to the justice of such claim, it may allow the same, but in no case shall the amount allowed exceed the sum paid into the Village treasury as the result of the sale of such motor vehicle, nor the amount of interest of the claimant therein.

(14) EXEMPTION. Any owner or person operating a registered vehicle which shall become disabled or inoperative for any reason, and who shall be unable to cause removal of such vehicle from any alley, street, highway or public place not otherwise regulated as a restricted parking, stopping or standing zone shall, within 12 hours of such occurrence, notify the Police Department of the location of the vehicle and shall transfer and deliver clear title for said vehicle to the Village together with a fee of \$25 to offset the cost of towing and junking charges and shall be exempt from the provisions of this section. When so requested by the owner or person in charge of a vehicle, the Chief of Police shall be authorized to order such vehicle removed and junked directly from the scene of disablement by a contractor engaged by the Village for towing of disabled vehicles. The provisions of sub. (11) above shall apply to any vehicle removed under this subsection.

(15) PENALTY. In addition to the cost of impounding and disposing of an abandoned vehicle, any person convicted of abandoning a vehicle in the Village shall be subject to a forfeiture of not less than \$50 nor more than \$100 plus the cost of prosecution.

3.08 ACCIDENT REPORTS.

(1) OPERATORS TO FILE. The operator of any vehicle involved in an accident resulting in injury to, or death of, any person, or property damage to an apparent total extent of \$500 or more, shall, within 10 days after such accident, file with the Chief of Police a copy of the report required by §346.70, *Wis. Stats.*

3.09 DISPLAY OF POWER OR SPEED PROHIBITED. No person shall engage in any speed contest, exhibition of speed or any unreasonable or unnecessary acceleration or show of power on any street, alley or public parking lot in the Village, including all school parking lots within the Village.

3.095 USE OF COMPRESSION BRAKES PROHIBITED. No person shall use motor vehicle brakes within the village limits of the Village of DeForest which are in any way activated or operated by the compression of the engine of any such motor vehicle or any unit or part thereof. The penalty for violations of this section shall be as provided in sec. 3.12(6).

[Cr. 02-46, Eff. 11-21-02]

3.10 TRAFFIC AND PARKING REGULATIONS ON SCHOOL DISTRICT GROUNDS. Pursuant to the provisions of §118.105, *Wis. Stats.*, the following regulations shall apply to the grounds of the DeForest School District located within the Village.

(1) HIGH SCHOOL PARKING. All parking on the grounds of the DeForest School District from 7:30 A.M. to 4:30 P.M. shall be restricted to areas designated for parking by the School Board. When signs are erected by the School Board giving notice of such restrictions, all persons shall park only in areas designated and signed for visitor parking. There shall be no parking on said grounds between 11:00 P.M. and 6:00 A.M., except when school functions extend past 11:00 P.M., and on such nights there shall be no parking one hour after the function has concluded.

(2) SPEED LIMITS. No person shall at any time operate a motor vehicle upon the DeForest School District High School grounds at a speed in excess of 10 miles per hour.

(3) VEHICLES PROHIBITED AT SPECIFIED TIMES. No person shall at any time operate a motor vehicle, other than a school or emergency vehicle, in or upon any drive designated for buses only by sign during the hours of 7:30 A.M. to 9:00 A.M. and during the hours of 3:00 P.M. to 4:30 P.M. on any weekday during the months school is in session.

3.105 SCHOOL BUS WARNING LIGHTS. (a) Use required. Except as provided in par. (b), whenever a school bus is equipped with flashing red warning lights as specified in §347.25 (2), *Wis. Stats.*, the operator of said bus shall actuate such lights at least 100 feet before stopping to load or unload pupils or other authorized passengers, and shall not extinguish such lights until loading or unloading is completed and persons who must cross the highway are safely across.

(b) School bus operators shall not use the flashing red warning lights when:

1. In special school bus loading areas where the bus is entirely off the traveled portion of the highway; or
2. In residential and business districts where sidewalks and curb are laid on both sides of the road, unless pupils or other authorized passengers are to be loaded or unloaded at a location at which there are no traffic signals and such persons must cross the street or highway before being loaded or after being unloaded.

[Cr. 13-04, Eff. 02-29-13]

3.11 SNOWMOBILES AND OTHER OFF-HIGHWAY VEHICLES

(1) STATE SNOWMOBILE LAWS ADOPTED. Except as otherwise specifically provided in this chapter, the statutory provisions describing and defining regulations with respect to snowmobiles in the following enumerated sections of the Wisconsin Statutes are hereby adopted by reference and made a part of this section as if fully set forth herein. Acts required to be performed or prohibited by such statutes are required or prohibited by this section:

(a)	§350.01	Definitions.
(b)	§350.02	Operation of Snowmobiles on or in the Vicinity of a Highway.
(c)	§350.03	Right of Way.
(d)	§350.035	Meeting of Snowmobiles.
(e)	§350.04	Snowmobile Races, Derbies and Routes.
(f)	§350.045	Public Utility Exemption.
(g)	§350.047	Local Ordinance to be Filed.
(h)	§350.05	Operation by Youthful Operators Restricted.
(i)	§350.07	Driving Animals.
(j)	§350.08	Owner Permitting Operation.
(k)	§350.09	Head Lamps, Tail Lamps and Brakes.
(l)	§350.095	Noise Level Requirements.
(m)	§350.10	Miscellaneous Provisions for Snowmobile Operation.
(n)	§350.101	Intoxicated Snowmobiling.
(o)	§350.102	Preliminary Breath Screening Test.
(p)	§350.1025	Application of Intoxicated Snowmobiling Law.
(q)	§350.103	Implied Consent.
(r)	§350.104	Chemical Test.
(s)	§350.106	Report Arrest to Department.
(t)	§350.107	Officer's Action after Arrest for Operating a Snowmobile while Under the Influence of Intoxicant.
(u)	§350.11	Penalties.
(v)	§350.12	Registration of Snowmobiles; Trail Use Stickers.
(w)	§350.13	Uniform Trail Signs and Standards.
(x)	§350.135	Interferences with Uniform Trail Signs and Standard Prohibited.
(y)	§350.15	Accident and Accident Reports.
(z)	§350.155	Coroners and Medical Examiners to Report; Require Blood Specimen.
(aa)	§350.17	Enforcement.
(bb)	§350.19	Liability of Land Owners.
(cc)	§350.99	Parties to a Violation.

(2) APPLICABILITY OF RULES OF THE ROAD TO SNOWMOBILES. The operator of a snowmobile upon a roadway shall, in addition to the provisions of Ch. 350, be subject to §§346.04, 346.06, 346.11, 346.14(1), 346.18, 346.19, 346.20, 346.21, 346.215(3), 346.26, 346.27, 346.33, 346.35, 346.37, 346.39, 346.40, 346.44, 346.46, 346.47, 346.48, 346.50(1)(b), 346.51, 346.52, 346.53, 346.54, 346.55, 346.87, 346.88, 346.89, 346.90, 346.91, 346.92(1), and 346.94(1) and (9), *Wis. Stats.*

(3) SNOWMOBILE AND OTHER OFF-HIGHWAY VEHICLE OPERATION RESTRICTED.

(a) General Prohibition. Except as otherwise provided in this Section, it shall be unlawful to operate any snowmobile or any other motor-driven craft or vehicle principally manufactured for off-highway use on the Village streets, alleys, parks, parking lots, or on any public lands or private lands or parking lots held open to the public. The operator shall at all times have the consent of the owner before operation of such craft or vehicle on private lands.

(b) Permitted use of Snowmobiles. Snowmobiles may be operated in the Village on public rights-of-way only as follows:

1. Snowmobiles may be operated on public streets for the purpose of residential access. "Purpose of residential access" means for the purpose of traveling the shortest distance between the snowmobile operator's residence and a Village or County snowmobile route or trail that is closest to that residence. Whenever a snowmobile operator has a choice of streets available to him or her for the purpose of residential access that include any primary access streets, a primary access street shall be used. Primary access streets are as follows:
 - i. South Street between South Main Street and River Road.
 - ii. Vinburn Road between South Main Street and U.S. 51.
 - iii. River Road between West North Street and Cuba Valley Road.
2. Snowmobiles may be operated in the Village on the marked snowmobile route following County Highway V ("North Street") between U.S. 51 and River Road. Snowmobiles may be used on said route for the purpose of residential access and any other lawful purpose.
3. Snowmobiles may be operated in public parks and on other municipal property as approved of by the Director of Public Services solely for the purpose of creating and maintaining ski and other trails.
[Am. 21-01; Eff. 2-12-21]
4. Snowmobiles may be operated for law enforcement and emergency purposes, as permitted under §350.02, *Wis. Stats.*, by public utilities, as permitted under §350.045, *Wis. Stats.*, and for snowmobile events authorized in accordance with §350.04, *Wis. Stats.*

(c) Authority to Open and Close Snowmobile Routes and Prohibit Residential Access. The Chief of Police or Director of Public Services may declare any snowmobile route, or part thereof, in the Village closed at any time, and may prohibit the use of snowmobiles for the purpose of residential access in the Village, or part of the Village, at any time. All snowmobile routes in the Village are closed, and the use of snowmobiles for the purpose of residential access in the Village is prohibited, when any Dane County snowmobile trail or route located within one mile of the Village is closed, except that the Chief of Police or Director of Public Services may subsequently reopen any snowmobile route or street for the purpose of residential access irrespective of a County trail or route being closed.

[Am. 15-33, Eff. 07-07-15]

(d) Signs and Markers. The Director of Public Services, or his or her designee, shall procure, erect, maintain and remove appropriate snowmobile signs and markers as approved by the Wisconsin Department of Natural Resources under §350.13, *Wis. Stats.* No person shall fail to obey any sign or marker erected in accordance with this section.

[Am. 15-33, Eff. 07-07-15]

(e) Speed Restricted. No person shall operate a snowmobile within the Village at a speed in excess of 10 miles per hour.

(f) Equipment. No person may operate within the Village a snowmobile without a muffler in good working order and without displaying a lighted headlamp and tail lamps on the snowmobile.

(g) Unattended Snowmobiles. No person shall leave or allow a snowmobile owned or operated by such person to remain unattended on any highway or public property while the motor is running or with the starting key left in the ignition.

(h) Parking Prohibitions. No snowmobile may be parked on any street or snowmobile route.

(i) Operation on Sidewalks Prohibited. No person shall operate a snowmobile upon any sidewalk, pedestrian way or upon the area between a sidewalk and curb of any street, except for the purpose of crossing by the most direct route to obtain access to an area in which the snowmobile may be lawfully operated.

(j) Permitting Operation by Improper Persons Prohibited. No owner or person having charge or control of a snowmobile shall authorize or permit any person to operate such snowmobile who is not permitted under state law to operate such snowmobile, or who is under the influence of an intoxicant or a dangerous or narcotic drug.

(k) Written Consent of Owner Required. The consent required under §350.10(f), (k), and (m), *Wis. Stats.*, and in para. (a) above shall be written consent dated and limited to the year in which the consent is given. If the property is owned or leased by more than one person, the consent of each must be obtained.

[Cr. 11-01, Eff. 2-3-11; Am. 11-18, Eff. 7-1-11]

3.115 NEIGHBORHOOD ELECTRIC VEHICLES.

(1) **DEFINITION.** As used in this section, "Neighborhood Electric Vehicle" means a four-wheeled motor vehicle that is propelled by electric power and conforms to the definition and requirements for low-speed vehicles as adopted in the federal motor vehicle safety standards for low-speed vehicles under 49 C.F.R. §571.3 (b) and 49 C.F.R. §571.500. A neighborhood electric vehicle shall be capable of attaining a speed of not less than 20 miles per hour, and not more than 35 miles per hour on a level paved surface. "Neighborhood electric vehicle" does not include a golf cart.

(2) **USE PERMITTED ON VILLAGE STREETS.** Neighborhood electric vehicles meeting the requirements of sub. (3) may be operated on any Village street having a posted speed limit of not more than 35 miles per hour by any person holding a valid Wisconsin operator's license or a valid license to drive motor vehicles on public highways issued by another state.

(3) **MINIMUM EQUIPMENT STANDARDS.** Any neighborhood electric vehicles operated on public streets within the Village shall be equipped with all of the following:

(a) Headlamps;

(b) Turn signals;

(c) Stop lamps;

- (d) Reflex reflectors on both sides and one to the rear;
- (e) A driver's side mirror and either an interior rearview or passenger's side mirror;
- (f) A vehicle identification number (VIN) that complies with federal law (49 CFR 565);
- (g) A parking brake;
- (h) A windshield (safety glass) that conforms to 49 CFR 571.205;
- (i) Safety belts for each designated seating position that conforms to 49 CFR 571.209 and Federal Motor Safety Standard No.209.

(4) TRAFFIC LAWS APPLICABLE. Neighborhood electric vehicles shall be subject to all state laws and Village ordinances relating to licensing, operation, parking, storage, sale, accident reporting, and registration to the same extent as other motor vehicles.
[Section Cr. 08-31, Eff. 9-19-08]

3.118 VEHICLES PROHIBITED ON PUBLIC TRAILS

[Cr. 21-06, Eff. 4-23-21]

(1) DEFINITIONS. As used in this section:

- (a) "Motorized Vehicle" means any motor vehicle as defined by §340.01(35), Wis. Stats., licensed for highway use, including neighborhood electric vehicles as defined by §3.115 of this Code, and any other machinery or equipment powered by an internal combustion engine or electric motor designed to transport persons or movable property, other than an electric wheelchair used by a person with a disability. The term includes, but is not limited to, all-terrain vehicles, snowmobiles, construction equipment, motorized bicycles or skateboards, electric personal assistive mobility devices, electric scooters, riding lawn mowers, garden tractors and motorized farm equipment.
- (b) "Public Trail" means a pedestrian way owned and maintained by the Village having a width of at least 8 feet and intended for recreational use primarily by pedestrians and bicyclists.

(2) OPERATION ON PUBLIC TRAILS PROHIBITED. (a) Generally. Except for authorized maintenance or emergency vehicles, it is unlawful for any person to operate any motorized vehicle on any public trail.

(b) Exceptions. The prohibition in par. (a) shall not apply to motorized scooters, electric bicycles, hoverboards or electric personal assistive mobility devices operated in compliance with the following restrictions.

1. The operator of a motorized vehicle on a public trail shall yield the right-of-way to any pedestrian and shall exercise due care and given an audible signal when passing a bicycle rider or pedestrian proceeding in the same direction.

2. Motorized vehicles on public trails shall not be operated in excess of 10 miles per hour.
3. No person shall operate any motorized vehicle on public trail during hours of darkness.
4. Motorized vehicles on public trails shall not be used to carry any passenger.
5. Motorized vehicles shall not be operated on any segment of a public trail where such use has been determined by the Director of Public Services, Chief of Police or Village Administrator to present a significant risk to public safety or damage to trail facilities and where signs prohibiting such use have been properly posted.

[Cr. 21-006, Eff. 4-23-21]

3.12 PENALTIES.

(1) FORFEITURE PENALTY. The penalty for violation of any provision of this chapter shall be a forfeiture as hereinafter provided together with the costs of prosecution and the penalty assessment imposed by §757.05, *Wis. Stats.*, where applicable. Payment of the judgment may be suspended by the sentencing judge for nor more than 60 days. Any person who shall fail to pay the amount of the forfeiture, costs of prosecution and penalty imposed for violation of any provision of this chapter may, upon order of the court entering judgment therefor and having jurisdiction of the case, be imprisoned until such forfeiture, costs and assessment are paid, but not exceeding 90 days.

(2) OTHER SANCTIONS. Nothing herein shall preclude or affect the power of the sentencing court to exercise additional authorities granted by the Wisconsin Statutes to suspend or revoke the operating privileges and registration of the defendant or to order the defendant to submit to assessment and rehabilitation or attend traffic safety school in addition to payment of a monetary penalty or in lieu of imprisonment.

(3) FORFEITURES FOR UNIFORM TRAFFIC OFFENSES. Forfeitures for violations of any traffic regulation set forth in the Wisconsin Statutes adopted by reference in sec. 3.01 of this chapter shall conform to the forfeiture or penalty permitted to be imposed for violations of the comparable state statute, including any variations or increases for subsequent offenses; provided, however, that this subsection shall not permit prosecution under this chapter of any offense for which an imprisonment penalty may be imposed upon the defendant.

(4) FORFEITURES FOR PARKING VIOLATIONS.

[Am. 15-12, Eff. 03-13-15]

(a) Forfeitures for Uniform Statewide Parking, Stopping and Standing Offenses. Minimum and maximum forfeitures for violation of the offenses described in §§346.51 to 346.55, *Wis. Stats.*, adopted by reference in sec. 3.01 of this chapter, shall be:
[Am. 15-12, Eff. 03-13-15]

<u>Section</u>	<u>Offense</u>	<u>Minimum</u>	<u>Maximum</u>
§346.51(1)	Improper parking on/off roadway	\$20.00	\$200.00
§346.52(1)	Stopping/standing in prohibited areas 2nd conviction within one year	\$10.00 \$20.00	\$40.00 \$100.00
§346.52(2)	Stopping/standing on highway by grade school 2nd conviction within one year	\$5.00 \$10.00	\$40.00 \$100.00
§346.53	Parking/standing where prohibited 2nd conviction within one year	\$5.00 \$10.00	\$40.00 \$100.00
§346.54	Improper parking/standing of vehicle 2nd conviction within one year	\$10.00 \$20.00	\$40.00 \$100.00
§346.55(1)	Parking on left side of highway	\$10.00	\$100.00
§346.55(3)	Parking on posted private property 2nd conviction within one year	\$10.00 \$10.00	\$100.00 \$100.00

(b) Penalty for Violating Winter Parking Restrictions. The penalty for violations of §3.06(8) shall be a forfeiture of not less than \$10.00 nor more than \$50.00, plus applicable costs and surcharges.

[Am. 15-12, Eff. 03-13-15]

(c) Penalty for Violating Disabled Parking Restrictions. Minimum and maximum forfeitures for violation of the offenses described in §346.505 Wis. Stats, adopted by reference in sec. 3.01 of this chapter, shall be the same as set forth in §346.56 (4) Wis. Stats.

[Cr. 11-35, Eff. 12-30-11; Am. 15-12, Eff. 03-13-15]

(d) Penalty for Other Parking Violations. The penalty for all other parking violations not included under paragraphs (a) through (c) above shall be a forfeiture of not less than \$5.00 nor more than \$20.00.

[Cr. 12-02, Eff. 1-27-12; Am. 15-12, Eff. 03-13-15]

(5) FORFEITURES FOR OTHER VIOLATIONS OF THIS CHAPTER.

[Section Am. 10-46, Eff. 12-19-10; Am. 12-02, Eff. 1-27-12; Am. 15-12, Eff. 03-13-15]

(a) Violations of State Snowmobile Laws. The forfeiture amounts for violations of §3.11 of this chapter shall be those set forth in Chapter 350, Wis. Stats.

[Cr. 15-12, Eff. 03-13-15]

(b) Violation of Prohibited Signs Ordinance. The forfeiture amount for violation of §3.02(3) of this chapter shall be not less than \$10 nor more than \$20 plus court costs and surcharges.

[Cr. 15-12, Eff. 03-13-15]

(c) Other Violations of this Chapter. Any person who shall violate any provision of this chapter for which a penalty is not otherwise specifically provided shall be subject to a forfeiture amount of not less than \$5 nor more than \$100 plus court costs and surcharges.

[Cr. 15-12, Eff. 03-13-15]

3.13 ENFORCEMENT. This chapter shall be enforced in accordance with the applicable provisions of the Wisconsin Statutes and this section.

(1) **APPLICABLE COURT PROCEDURES.** Except as otherwise specifically provided by the laws of the State of Wisconsin or the provisions of this chapter, the traffic regulations in this chapter shall be enforced in the Municipal Court of the Village of DeForest in accordance with the provisions of Ch. 800 and §345.20(2)(b), *Wis. Stats.*

(2) CITATIONS.

(a) Uniform Citation and Complaint. The Wisconsin Uniform Traffic Citation and Complaint described and defined in the Wisconsin Statutes shall be used for enforcement of all provisions of this chapter except those provisions which describe or define non-moving traffic violations and violations of §§346.71 through 346.73, *Wis. Stats.* Violations of §§346.71 through 346.73, *Wis. Stats.*, shall be reported to the District Attorney and the Wisconsin Uniform Traffic Citation shall not be used in such cases except upon written request of the District Attorney.

(b) Parking Citations. In consultation with the Village of DeForest Police Department, the Village Attorney shall recommend a citation for use in enforcing the non-moving traffic offenses in this chapter. The form of the citation must be approved by the Village Board. When approved by the Village Board, such citations may be used for enforcement of non-moving traffic regulations created or adopted by this Code, including violations of non-moving traffic regulations defined and described in Chs. 340 through 349, *Wis. Stats.*, adopted by reference in sec. 3.01 of this chapter. The citation for non-moving traffic violations shall contain a notice that the person cited may discharge the penalty for violation of a non-moving traffic regulation by direct payment thereof, as specified in sub. (3)(b) below, and shall contain notice that the citation may be contested and that any person contesting the citation must contact the Clerk of Courts to arrange a court date. Non-moving traffic citations may be issued by law enforcement officers or by civilian employees of the Police Department. Nothing in this subsection shall prevent the use of the Wisconsin Uniform Traffic Citation or to the approved citation if otherwise applicable.

[Am. 00-07, Eff. 3-20-00]

(c) Issuance of Citations. Citations for violations of this chapter to commence an action in the municipal court may be issued by any law enforcement officer employed by the Village, or by any other law enforcement officer while providing law enforcement assistance pursuant to §66.0313, Wis. Stats. or under an intergovernmental agreement.

[Cr.13-07, Eff. 4-3-13]

(3) DEPOSITS AND STIPULATIONS.

(a) Uniform Traffic Offenses.

1. Who May Make. Persons arrested or cited for violation of moving traffic offenses created by this chapter shall be permitted to make deposits and stipulations of no contest or released by the arresting officer in accordance with the applicable provisions of the Wisconsin Statutes.
2. Delivery or Mailing of Deposit and Stipulation. The deposit and stipulation shall be delivered personally by the person cited or mailed to Police Department Headquarters.
3. Receipt Returned. The official or person receiving the deposit shall furnish and deliver or mail an original receipt for such deposit to the alleged violator and shall deliver the deposit and stipulation and a copy of the receipt within 3 days to the Clerk of Court.

(b) Non-Moving Traffic Offenses.

1. Direct Payment of Penalty Permitted. Persons cited for violation of non-moving traffic offenses described and referenced in this chapter may discharge the penalty indicated on the citation, and avoid prosecution, by forwarding within 7 days of the issuance of the citation to the DeForest Police Department the amount specified on the citation for the violation. If not so discharged within 7 days, the penalty will double and will only be discharged by payment to the DeForest Police Department of double the amount shown on the citation.
[Am. 00-07, Eff. 3-20-00]
2. Court Prosecution. If the alleged violator does not deliver or mail a deposit as provided in subparagraph. 1. above within 10 days of the date of the citation, the Chief of Police shall forward a copy of the citation to the Village Attorney for prosecution pursuant to law.
3. Deposits Returned to Village Administrator. Police personnel receiving deposits for non-moving traffic violations under this subsection shall pay over such deposits to the Chief of Police. By the end of the next work day the Chief of Police shall pay over such deposits to the Village Administrator. Such payment shall be accompanied by an itemized statement for each deposit.

3.14 REFERENCES TO WISCONSIN STATUTES.

- (1) STATUTES SPECIFICALLY INCORPORATED BY REFERENCE. Whenever this chapter incorporates by reference specific sections of the Wisconsin Statutes, such

references shall mean the Wisconsin Statutes of 1999-2000 as from time to time amended, repealed or modified by the Wisconsin Legislature.

(2) GENERAL REFERENCES. General references in this chapter to Wisconsin statutory sections or chapters describing or defining procedures or authority for enactment or enforcement of local traffic regulations shall be deemed to refer to the most recent enactments of the Wisconsin Legislature describing or defining such procedures or authorities.

CHAPTER 4 POLICE DEPARTMENT

4.01 Police Department.....	4-1
4.02 Chief of Police	4-1
4.03 Police Powers.....	4-2
4.04 Who May Arrest.....	4-2
4.05 Special Policemen.....	4-2
4.06 Search and Seizure	4-2
4.07 Police to Inspect Taverns.....	4-2
4.08 Fires and Assemblages	4-2
4.09 Arrests, Persons Called to Assist	4-3
4.10 Interfering With or Resisting Police Officer.....	4-3
4.11 Police Not to Give Bail.....	4-3
4.12 Penalty	4-3

4.01 POLICE DEPARTMENT.

(1) COMPOSITION. The Police Department shall consist of the Chief of Police and such number of subordinates as the Village Board shall from time to time deem necessary.

(2) REGULATIONS. Members of the Department shall be governed by the rules, regulations and ordinances adopted by the Village Board and the Wisconsin Statutes.

4.02 CHIEF OF POLICE.

(1) APPOINTMENT. See Sec 1.02(2) of this Code.

(2) POWERS AND DUTIES.

(a) Supervision. The Chief of Police shall have command of the Police force. He shall see that all laws, rules, regulations, ordinances, resolutions and orders of every kind applicable within the Village set forth by the Wisconsin Statutes and the Village Board are enforced.

(b) Arrest. The Chief of Police shall cause to be arrested all persons who shall be found violating any ordinances or regulations of the Village and all persons chargeable with offenses punishable by the laws of the State and bring such persons before the proper tribunal.

(c) Police Record. The Chief of Police shall keep an accurate and complete record of all complaints, arrests, traffic violations, traffic accidents, convictions and the disposition of each case handled by the Department. The Chief shall also keep a record of the accomplishments and performance of each police officer.

(d) Monthly Report. The Chief of Police shall, following the end of each month, submit to the Village Board a written report on all activities and transactions of the Department during the preceding month.

(e) To Attend Village Board Meetings. The Chief of Police shall attend meetings of the Village Board upon request of the Village President.

(f) Deposit of Fees. All license fee deposits and traffic violation bonds collected by the Department shall be deposited with the Village Administrator during the next working day.

(g) Attendance at Board of Police Commissioner Meetings. The Chief of Police shall attend meetings of the DeForest Board of Police Commissioners upon request of that board. [Am. 00-56, Eff. 11-6-00]

4.03 POLICE POWERS. All police officers shall have such powers and shall perform such duties as are prescribed by State and federal law, all ordinances of the Village and orders, rules and regulations lawfully prescribed by the Village President or the Village Board. The Chief and each police officer shall possess the powers, enjoy the privileges, and be subject to the liabilities conferred and imposed by law upon constables, and be taken as included in all writs and papers addressed to constables, shall arrest with or without process and with reasonable diligence take before the proper court every person in the Village engaged in any disturbance of the peace or violating any law of the State or ordinance of the Village. They shall collect the same fees allowed to constables for similar services. It shall be their duty to familiarize themselves with provisions of the ordinances and all rules and regulations relating to the police and govern themselves accordingly.

4.04 WHO MAY ARREST. The Chief of Police and members of the Police Department, with or without process or complaint, may arrest, retain and confine in such place as may be provided by the Village Board until a trial can be had before a proper court, any and all persons violating the ordinances or regulations of the Village, and any persons who shall be detected in the act of offending against any of the provisions of the laws of the State of Wisconsin.

[Am. 23-13; Eff. 5-2-23]

4.05 SPECIAL POLICEMEN. Whenever any emergency may warrant, the Chief, with the approval of the Village President or the Village Board, may appoint as many additional police officers as the Village President or the Board shall authorize to properly police the Village and enforce the ordinances of the Village and the laws of the state. Such police officers shall be known as special police officers and shall continue in the employ of the Village only during the existence of the emergency or until discharged by the Village President or the Village Board.

4.06 SEARCH AND SEIZURE. The police officers of the Village may search and seize with respect to violation of the Village ordinances under the same restrictions and rules governing search and seizure with respect to offenses against state statutes.

4.07 POLICE TO INSPECT TAVERNS. The Chief of Police shall see that each place in the Village licensed to deal in fermented malt beverages or intoxicating liquor is periodically visited and inspected by a police officer, and that a record of all violations, complaints or unfavorable conditions is made at the police station.

4.08 FIRES AND ASSEMBLAGES. The Chief of Police or any other officer directed by him shall attend all fires and tumultuous assemblages to direct traffic, to save

and protect property and to disperse mobs and arrest such persons as he may find disturbing the peace or aiding or abetting others in so doing.

4.09 ARRESTS, PERSONS CALLED TO ASSIST. All persons in the Village, when called upon by any police officer, shall promptly aid and assist such officer in the execution of his duties. Failure or neglect to give such assistance shall be and constitute a violation of this section.

4.10 INTERFERING WITH OR RESISTING POLICE OFFICER. Any person in the Village who shall willfully resist or in any way interfere with any police officer or member of the Police Department in the discharge of his duty or shall hinder or prevent him from discharging his duty as such officer or member, or shall offer or endeavor so to do, and whoever shall, in any manner, assist any person in custody, shall be subject to the penalty provided in sec. 4.12 of this chapter.

4.11 POLICE NOT TO GIVE BAIL. The Chief of Police, or other police officer, shall in no case give bail for any person under arrest.

4.12 PENALTY. Any person who shall violate any provision of this chapter, or any order, rule or regulation made hereunder, shall be subject to a penalty as provided in sec. 20.04 of this Code.

CHAPTER 5
FIRE PROTECTION AND PREVENTION CODE
[Repealed & Recr. 14-001, Eff. 1-17-14]

SUBCHAPTER I: FIRE PROTECTION SERVICES	5-2
5.01 FIRE DISTRICT	5-2
5.02 DEFOREST AREA FIRE PROTECTION BOARD	5-2
5.03 PERSONNEL AND APPOINTMENTS	5-2
5.04 POWERS AND DUTIES OF FIRE CHIEF	5-2
5.05 DEPARTMENT BUDGET	5-3
5.06 POLICE POWER OF DEPARTMENT	5-3
5.07 FIRE INSPECTORS.....	5-4
5.08 FIRE INSPECTION FEES.....	5-5
5.09 FEES RELATING TO FIRE PROTECTION SYSTEMS	5-5
5.10 DUTY OF PUBLIC TO COOPERATE WITH DEPARTMENT	5-6
5.11 TRAFFIC LAWS APPLY TO VOLUNTEERS.....	5-6
SUBCHAPTER II: FIRE PREVENTION CODE	5-6
5.20 PURPOSE AND INTENT.....	5-6
5.21 ADOPTION OF WISCONSIN ADMINISTRATIVE CODES AND DEFINITIONS.....	5-7
5.22 APPLICABILITY	5-7
5.23 OPEN BURNING	5-8
5.24 BURNING OF PRAIRIE AREAS	5-9
5.25 POSSESSION OF NOVELTY IGNITION DEVICES BY MINOR	5-10
5.26 SALE, STORAGE AND DISCHARGE OF FIREWORKS RESTRICTED	5-11
5.27 COMBUSTIBLE MATERIALS PROHIBITED.....	5-14
5.28 GUNPOWERS	5-14
5.29 DYNAMITE	5-15
5.30 LIABILITY FOR DAMAGES	5-15
5.40 ADDITIONS TO, CHANGE OF USE OR REMODELED BUILDINGS	5-15
5.41 PLAN SUBMITTALS	5-16
5.42 PERMIT REQUIRED.....	5-16
5.43 INSPECTION AND TESTING.....	5-17
5.44 NOTIFICATION OF USE OR OCCUPANCY CHANGE	5-17
5.45 REVOCATION OF PERMITS AND CERTIFICATES	5-18
5.46 SERVICE OF CORRECTION ORDERS	5-18
5.47 VARIANCES	5-19
5.48 MISCELLANEOUS CONSTRUCTION PROVISIONS.....	5-20
5.49 OPEN FLAMES IN RETAIL ESTABLISHMENTS PROHIBITED	5-21
5.50 CHRISTMAS TREE SALES	5-21
5.51 KEY BOX REQUIREMENTS	5-22
5.52 FLAMMABLE, COMBUSTIBLE, AND HAZARDOUS MATERIALS	5-23
SUBCHAPTER III: ENFORCEMENT AND APPEALS	5-24
5.60 PENALTIES	5-24
5.61 APPEALS	5-24

SUBCHAPTER I: FIRE PROTECTION SERVICES

5.01 FIRE DISTRICT. Fire protection and emergency medical response within the Village shall be provided through the DeForest Area Fire & EMS District, in accordance with the joint fire protection agreement in effect between the municipalities comprising the District. As used in this Chapter, the terms "Fire Department" and "Department" refer to the DeForest Windsor Fire & EMS Department created by the joint fire protection agreement to provide services within the District.

5.02 DEFOREST AREA FIRE PROTECTION BOARD.

(1) **MEMBERSHIP.** The DeForest Area Fire Protection Board shall be composed of one member of the governing bodies of the Village of DeForest and of each of the towns which are parties to a joint fire protection agreement with the Village, as set forth in the terms of the agreement.

(2) **MEETINGS.** The Fire Protection Board shall meet periodically as may be required to conduct its business and in accordance with the joint fire protection agreement.

(3) **POWERS AND DUTIES.** The Fire Protection Board shall have the powers and duties set forth in the joint fire protection agreement.

5.03 PERSONNEL AND APPOINTMENTS.

(1) **FIRE CHIEF.** The Fire Chief shall be appointed by the Fire Protection Board.

(2) **DEPUTY CHIEF AND ASSISTANT FIRE CHIEFS.** The Deputy Chief and Assistant Fire Chiefs shall be appointed by the Fire Chief, subject to confirmation by the Fire Protection Board.

(3) **SUBORDINATES.** Subordinates shall be appointed by the Fire Chief.

5.04 POWERS AND DUTIES OF FIRE CHIEF.

(1) **GENERAL SUPERVISION.** The Fire Chief shall have the general supervision of the Fire Department, which supervision shall be subject to this chapter, and shall be responsible for the safety of the members of the Department.

(2) **DISCIPLINARY ACTION.** The Fire Chief shall have the power to suspend, demote, expel or otherwise discipline members of the Department, subject to appeal to the Fire Protection Board.

(3) **COMMAND OF FIRE FIGHTING OPERATIONS.** The Chief or a designated command officer shall be present at all fires, and have complete command and entire responsibility of all firefighting operations, plan the control of the same, direct the action of the Department when it arrives at a fire, observe that the Department does its duty, grant leaves of absence at a fire when deemed proper, and see that the fire apparatus is kept in proper condition at all times.

(4) **REPORTS TO THE FIRE PROTECTION BOARD.** The Chief shall submit a written report to the DeForest Area Fire Protection Board not later than March 1 of each

year, and at such times as the Chief deems desirable, relating to the conditions of various pieces of apparatus and appurtenances, budget recommendations for the ensuing year, the number of hydrants and the condition of the same, the number of fires occurring since the previous report and the date of the same and loss occasioned thereby, the total number of active members in the Department, and resignations and terminations from the Department. The Chief shall also report upon the drill and training program of the Department, together with other pertinent information, including recommendations for such improvements as he or she deems proper and necessary for the operation of the Department.

(5) ENFORCEMENT OF FIRE PREVENTION ORDINANCES. The Fire Chief shall assure the enforcement of all fire prevention ordinances of the Village and the state laws and regulations pertaining to fire prevention and shall keep citizens informed on fire prevention methods and on the activities of the Department.

(6) FIRE RECORD. The Fire Chief shall keep a record of every fire and EMS call to which the Department has responded and shall enter in such record the location of the fire or emergency, the time the alarm was received, the cause of the fire, where the fire started, the cause of delay, if any, in responding, the amount of insurance carried on buildings and contents, estimated fire loss, the time the fire was extinguished, the names of the personnel responding and other pertinent information. Information concerning all calls for service shall be entered into the Department's records management system.

(7) CONTROL AND CARE OF APPARATUS. The Fire Chief shall have control of all apparatus used by the Department and shall be responsible for its proper maintenance. Emergency repairs may be authorized by the Fire Chief.

(8) APPARATUS INVENTORY. The Fire Chief shall keep an inventory of all apparatus and equipment and an inventory of all hoses showing dates and results of tests on each length, which shall be individually numbered. The inventory shall be maintained in the Department's records management system.

(9) DUTIES AS COMMANDING OFFICER. The Fire Chief shall perform such other duties as are usually incumbent on the commanding officer of a Fire Department.

5.05 DEPARTMENT BUDGET. The Fire Chief shall file with the Fire Protection Board by October 1 a detailed estimate of the appropriations needed for the conduct of the Department during the ensuing fiscal year, along with anticipated revenues available to offset Department expenses.

5.06 POLICE POWER OF DEPARTMENT.

(1) POLICE AUTHORITY AT FIRES. The Fire Chief and all officers in command at any fire are vested with full and complete police authority. Any officer of the Department may cause the arrest of any person interfering with the activities of the Department in responding to a fire or other emergency, provided, however, that such arrest power shall not be exercised unless a law enforcement officer with appropriate jurisdiction is unavailable to make a timely arrest.

(2) CONTROL OF FIRES. The Fire Chief may prescribe certain limits in the vicinity of any fire within which no persons excepting firefighters and police officers and those admitted by order of any officer of the Department shall be permitted to enter. The Chief

may cause the removal of any property whenever it shall become necessary for the preservation of such property from fire or to prevent the spreading of fire or to protect the adjoining property, and during the progress of any fire may order the removal or destruction of any property necessary to prevent the further spread of the fire. The Chief may also cause the removal of all wires or other facilities and the disconnection of all electric or other services where the same impedes the work of the Department during the progress of a fire or other emergency.

(3) ENTERING PREMISES. Any firefighter while acting under the direction of the Fire Chief or other officer in command may enter upon the premises adjacent to or in the vicinity of any building or other property when on fire for the purpose of extinguishing such fire.

5.07 FIRE INSPECTORS.

(1) FIRE CHIEF TO BE FIRE INSPECTOR. The Fire Chief shall hold the office of Fire Inspector with the power to appoint one or more Deputy Fire Inspectors, who shall perform the same duties and have the same powers as the Fire Inspector. As used elsewhere in this Chapter, the term "Fire Inspector" means the Fire Inspector and any appointed Deputy Fire Inspector.

(2) INSPECTION DUTIES.

(a) The Fire Inspector shall conduct routine inspections at each public building and place of employment at least as often as required by §101.14(2), Wis. Stats. or rules of the Wisconsin Department of Safety and Professional Services. The Fire Inspector shall enforce the provisions the Fire Prevention Code contained in Subchapter II of this Chapter.

(b) The Fire Inspector shall investigate the cause, origin and circumstances of fires occurring within the Village to determine whether they are the result of intentional acts, carelessness or design flaws. Such investigations may begin immediately upon the occurrence of such a fire, and if it appears to the officer making such an investigation that such fire is of suspicious origin and of a significant nature, the Fire Chief shall be notified of the facts. The Fire Inspector shall notify the proper authorities designated by law to pursue the investigation of such matters and shall further cooperate with the authorities in the collection of evidence and in the prosecution of the case. The Fire Inspector shall file a written report of damage associated with every fire in a timely manner. It shall contain a statement of all facts relating to the cause and origin and circumstances of such fire and other relevant information.

(c) The Village Attorney and any department head of the Village, upon the request of the Fire Chief, shall assist in the investigation of any fire that, in the Chief's opinion, is of suspicious origin.

(3) RIGHT OF ENTRY.

(a) The Fire Inspector may, at all reasonable hours enter any place of employment and/or public building, as those terms are defined under §101.01, Wis. Stats., subject to this chapter for the purpose of making any inspection or investigation deemed necessary to administer and enforce this chapter.

(b) The Fire Inspector shall inspect, or cause to be inspected, all places of employment and public buildings as often as may be necessary, but not less than once each year, unless otherwise provided by law.

[Am. 19-004, Eff. 3-1-2019]

(c) Inspections and/or investigations shall be conducted to determine whether any violations of the provisions of this chapter and/or the codes or standards adopted by reference exist on the premises and to order corrections of the violations observed.

(d) The Fire Inspector, upon the complaint of any person or whenever he or she shall deem necessary, shall inspect any place of employment and/or public building and premises subject to this chapter.

(e) The interiors of dwelling units will not be inspected unless an inspection is specifically requested by the owner or occupant, unless otherwise permitted by law.

(4) CLOSING AND VACATING BUILDINGS. The Fire Inspector may order compliance with this chapter and all other lawful orders or laws relating to fire prevention and fire protection in existing building and structures. Where the public is exposed to immediate danger due to a violation of this chapter or an order issued under this chapter, the Fire Inspector may order the immediate closing and vacating of any building subject to the violation.

(5) WRITTEN RECORD OF INSPECTIONS. The Fire Inspector shall keep a written record of each property inspected which shall conform to the requirements of the Wisconsin Department of Safety and Professional Services.

[Am. 19-004, Eff. 3-1-2019]

(6) CORRECTION OF FIRE HAZARDS. When any inspection by the Fire Chief or any Deputy Fire Inspector reveals a fire hazard, the Chief or the inspector may serve a notice in writing upon the owner or occupant of the property ordering said person to remove the fire hazard within a reasonable time period. If the fire hazard is not removed within the time allowed, it shall be deemed a nuisance and the Fire Chief or the inspector may have the same removed in an action by the Village against the owner or occupant of the property and the cost thereof may also be entered on the tax roll as a special charge against the property.

5.08 FIRE INSPECTION FEES.

(1) FEES CHARGED FOR INSPECTION SERVICE. Fees shall be charged for inspection services provided by the Fire Inspector. A fees schedule will be made by the Village Board and revised from time to time at the discretion of the Village Board.

(2) [Repealed 19-004, Eff. 3-1-2019]

5.09 FEES RELATING TO FIRE PROTECTION SYSTEMS. The Village Board may establish fees for permits, approvals, and other functions performed under this chapter, in addition to inspection services. Such fees shall accompany each application for such approval, permit, or other fee related code provision.

5.10 DUTY OF PUBLIC TO COOPERATE WITH DEPARTMENT.

(1) INTERFERENCE WITH DEPARTMENT PERSONNEL PROHIBITED. No person may hinder, resist or obstruct any Department personnel in the discharge of their duties. In addition, no person may interfere with fire fighting, as provided under § 941.12, Wis. Stats., adopted under Village Ordinance §10.01.

(2) DUTIES OF BYSTANDERS. Every person who shall be present at a fire shall be subject to the orders of the Fire Chief or officer in command and may be required to render assistance in removing or guarding property. Such officer may cause the arrest of any person refusing to obey said orders.

(3) DAMAGE TO EQUIPMENT PROHIBITED. No person shall willfully damage in any manner any hose, hydrant or fire apparatus belonging to the Village and no vehicle or railroad equipment shall be driven over any unprotected fire hose when laid down on any street, private driveway, track or other place to be used at any fire or alarm of fire without the consent of the officer in command.

(4) COOPERATION WITH FIRE INSPECTOR. No person shall deny any Fire Inspector free access to any public building or place of employment, as those terms are defined under §101.01, Wis. Stats., within the Village at any reasonable time for the purpose of making fire inspections. No person shall hinder or obstruct the Fire Inspector in the performance of any inspection or the performance of any other duty, or refuse to observe any lawful direction given by the Inspector.

5.11 TRAFFIC LAWS APPLY TO VOLUNTEERS. All volunteer firefighters, when responding to fire calls with a private vehicle, shall comply with all traffic regulations.

SUBCHAPTER II: FIRE PREVENTION CODE.

5.20 PURPOSE AND INTENT. The purposes of this subchapter are to:

(1) Provide comprehensive regulations to improve public safety by attempting to control, limit, restrict and/or eliminate fire hazards.

(2) Improve safety for employees, firefighters, and frequenters of places of employment and public buildings.

(3) Regulate the installation, use and maintenance of equipment, and the use of structures, occupancies and open areas with respect to fire protection hazards.

(4) Require the removal and/or reduction of fire hazards, establish responsibilities and procedures for code enforcement, and set minimum standards for compliance and achievement of these objectives.

(5) Protect property from the hazards of fire and explosion by establishing minimum standards for the use, operation, maintenance and inspection of buildings, structures and premises so they relate to such hazards.

5.21 ADOPTION OF WISCONSIN ADMINISTRATIVE CODES AND DEFINITIONS.

(1) The most current versions of the Wisconsin Administrative Code, stated below, and as may be amended from time to time are hereby incorporated into this subchapter:

- | | |
|-----------------|---|
| (a) SPS 305 | Licenses, certification and registration |
| (b) SPS 307 | Explosives and fireworks |
| (c) SPS 310 | Flammable, combustible and hazardous liquids |
| (d) SPS 314 | Fire prevention |
| (e) SPS 316 | Electrical |
| (f) SPS 318 | Elevators, escalators and lift devices |
| (g) SPS 328 | Smoke detectors and carbon monoxide detectors |
| (h) SPS 340 | Gas systems |
| (i) SPS 345 | Mechanical refrigeration |
| (j) SPS 361-366 | Commercial Building Code |
| (k) SPS 375-379 | Buildings Constructed Prior to 1914 |

(2) In cases of conflict between any provision of this chapter and any regulation contained in the Wisconsin Statutes or Administrative Code, the most restrictive provisions shall apply.

(3) Except as otherwise provided in this subchapter, definitions of terms are those provided in the NFPA 1 version currently adopted and modified under the Wis. Admin. Code, §SPS 314, Fire Prevention. When used in this subchapter, NFPA refers to the National Fire Protection Association, and the number following NFPA refers to a code published by the association.

5.22 APPLICABILITY.

(1) The provisions of Part A of this subchapter shall apply to all individuals and properties within the jurisdiction of the Village, except as otherwise provided. The provisions of Part B of this subchapter apply only to public buildings and places of employment in the Village, as those terms are defined under §101.01, Wis. Stats.

(2) Nothing contained in this chapter shall be construed as applying to the transportation of any article or thing shipped in conformity with the regulations prescribed by the Interstate Commerce Commission, or as applying to the military forces of the United States.

(3) Subject to §5.40 of this subchapter, the provisions of Part B shall apply equally to new and existing conditions, except that conditions existing at the time of enactment of this subchapter that are not in strict compliance with the terms of this subchapter shall be permitted to continue only where the Fire Inspector determines that the conditions do not pose a distinct hazard to life or adjoining property.

(4) The requirements of this subchapter apply equally to the property owner and occupants of a building and property.

PART A – REGULATIONS GOVERNING ALL PROPERTIES

5.23 OPEN BURNING. No person shall kindle, or cause to be kindled, any fire in or upon any street, alley, public way, park or any other outdoor public or private ground within the Village, except as permitted by this section.

(1) **BURNING OF GRASS, YARD WASTE AND TRASH RESTRICTED.**

(a) Grass and Yard Waste Fires Regulated. No person shall kindle any grass or yard waste fire within the Village without first securing a permit from the Fire Inspector who shall issue such permit subject to any conditions for the protection of life, health and property that he or she deems necessary or appropriate.

(b) Trash Burning Prohibited. No person may burn trash, garbage, tires, petroleum products, or any other waste within the Village.

(2) **PERMISSIBLE OUTDOOR BURNING.**

(a) Barbecue Grills: Hibachis, gas-fired grills, charcoal grills and similar devices may be used for cooking, provided that no such device operating with an open flame shall be used or kindled on any balcony or under any overhanging portion of any building other than a one- or two-family dwelling. Grilling on ground level is permissible on all private property and in designated areas of Village parks, provided that the grill is at least 10 feet away from any structure. The operator of any such device shall assure that smoke is controlled so as not to unreasonably disturb others in the vicinity or cause dangers on public roadways. Electrical ranges, grills or similar electrical apparatus listed by a nationally recognized testing organization are exempt from the locational requirements of this paragraph.

(b) Recreational Fires. Fire pits, outdoor fireplaces and similar devices or structures may be used outdoors for recreational purposes. Recreational fires shall be subject to the following restrictions, unless otherwise approved by the Fire Inspector and operated under conditions determined by the Fire Inspector to be necessary to provide an equivalent level of fire prevention:

1. All fires shall be supervised at all times by an adult and have the proper means available to extinguish the fire. No fire shall be left unattended at any time.
2. Flammable or combustible liquids shall not be used to ignite the fire. This subdivision shall not apply to products designed and sold specifically to assist in the ignition of charcoal fires when used to ignite a fire permitted by this section.
3. The operator of any such fire shall assure that smoke is controlled so as not to unreasonably disturb others in the vicinity or cause dangers on public roadways.
4. Portable fire pits, outdoor fireplace and similar devices may be used only if listed by a nationally recognized testing organization or approved by the Fire Inspector.

5. Fire pits, fireplaces and similar devices shall be used only on noncombustible surfaces.
6. No fire shall be kindled or maintained under any balcony or overhanging portion of a building or nearer than the following distances from any portion of a building or other structure:
 - a. Portable fire pits: 10 feet.
 - b. Other fires: 25 feet.
7. Fuel burned shall be limited to dry natural firewood or commercially sold fire logs, and shall not include lumber, pallets, scrap wood, tree trimmings, leaves, yard wastes, paper, cardboard or other items.
8. The total fuel area shall not exceed 3 feet in diameter and 2 feet in height.

5.24 BURNING OF PRAIRIE AREAS.

(1) MAINTENANCE BURNING OF NATURAL AREAS ON VILLAGE OWNED LANDS. The Public Services Director or his or her designee shall determine which natural areas on Village owned lands, or parts thereof, should be burned in accordance with accepted habitat management practices. Prior to burning any natural areas on Village owned lands, the Village shall obtain a burning permit from the Fire Chief or his or her designee.

(2) MAINTENANCE BURNING ON PRIVATELY OWNED LANDS. Established prairie areas on private property may be burned periodically for environmental management purposes only by a person with sufficient qualifications and experience as determined by the Fire Chief or his or her designee. The applicant for a burning permit shall provide a burn plan when applying for the permit. To qualify for a burn permit under this subsection, the private prairie area must be certified as containing significant prairie plantings by the Director of Public Services. A permit issued under this subsection does not authorize the burning of turf grass, leaves or yard waste other than materials naturally existing within the prairie area.

(3) PROCEDURES FOR BURNING

(a) Notice.

1. Prior to any burning authorized under sub. (1), public notice shall be given of the date or dates upon which each designated area shall be burned. Such notice shall be published in a newspaper likely to give notice to residents within the Village and shall include a statement that any such dates may be postponed at the discretion of the Fire Chief or the Public Services Director without further notice.
2. Owners of private lands for which a permit is issued under sub. (2) shall notify the Fire Department and the owners or occupants of all residences within 500 feet of the approved burning area of the time and date of the burning activity either by publication in accordance with sub. (a)1, or by written notice

delivered personally or by mail at least 48 hours prior to commencement of the controlled burn.

(b) Conduct of Burning Operations.

1. All burning operations authorized pursuant to sub. (1) shall be conducted under the direction and control of the Public Services Director or her/his designee. In determining whether to proceed with a controlled burn, the Public Services Director or his/her designee shall take into consideration the following:
 - a. Weather and all other environmental conditions including, but not limited to, wind speed and direction, moisture, temperature, and any other conditions that may affect the amount of smoke generated, the dispersion of smoke generated, or the ability to control the fire;
 - b. The safety of firefighters and other personnel engaged in the burning operation and of the public and the protection of public and private property;
 - c. The drought monitor index for Wisconsin and the current fire danger levels for the area.
2. All burning authorized under this section shall be conducted in compliance with any conditions, restrictions or requirements imposed by the Fire Chief or for the protection of the public health and safety.

(4) **LIABILITY.** Nothing in this section shall be construed to create or increase any liability upon the Fire Chief, the Fire Department or any of its officers or members, the Fire Board, the Village or any of its boards, committees, officials or employees to any third party.

[Rep & recr. 19-014, Eff. 8-16-19]

5.25 POSSESSION OF NOVELTY IGNITION DEVICES BY MINOR.

(1) **POSSESSION BY MINORS PROHIBITED.** No minor may possess any novelty ignition device, unless under the direct supervision of, or with direct permission of, a parent or legal guardian.

(2) **DELIVERY PROHIBITED.** No person may sell, give, deliver or make accessible, any novelty ignition device to a minor without the permission of the minors parent or legal guardian.

(3) **CONFISCATION.** Any novelty ignition device possessed by a minor in violation of this section may be confiscated by any police officer, the Fire Chief, the Fire Inspector or authorized designee of the Fire Chief. Once confiscated, these ignition devices shall be processed as evidence in the case where they were used in the commission of a crime, or rendered inoperable and disposed of properly.

5.26 SALE, STORAGE AND DISCHARGE OF FIREWORKS RESTRICTED.

[Repl. & Recr. 23-03, Eff. 2-18-23]

(1) STATE LAW ADOPTED. Section 167.10, Wis. Stats., regulating the sale and use of fireworks, exclusive of any penalty imposed thereby, is adopted by reference and made a part of this section as though set forth in full.

(2) DEFINITIONS. For purposes of this section:

(a) "Display" shall mean the act of igniting or otherwise triggering the intended explosion, emission of sparks or smoke or other action for which fireworks are designed.

(b) "Fireworks" shall mean those items defined as fireworks under §167.10(1), Wis. Stats. and, except as used in sub. (3) shall also include the following:

1. Caps containing gunpowder or another explosive mixture, other than those manufactured and sold for use in firearms;
2. Toy snakes;
3. Sparklers;
4. Any device designed to spray out paper confetti or streamers, or to produce audible or visual effects by ignition of an explosive mixture;
5. Any device that is designed primarily to burn pyrotechnic smoke-producing mixtures, at a controlled rate, and that produces audible or visible effects, or audible and visible effects;
6. A cylindrical fountain that consists of one or more tubes and that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50; and
7. A cone fountain that is classified by the federal department of transportation as a Division 1.4 explosive, as defined in 49 CFR 173.50.

(c) "Sell" or "Sale" shall mean the transfer of possession or ownership of fireworks, or the possession, exhibition or storage of fireworks with the intent to sell them for consideration.

(3) FIREWORKS USE. No person shall display any fireworks other than those listed in subpars. 1 through 7 of sub. (2)(b), except as authorized by a fireworks use permit granted under this section.

(4) SALE AND DISPLAY OF FIREWORKS. No person shall sell fireworks, except as authorized by a fireworks sales permit issued under this section. This subsection shall not apply to persons transporting fireworks through the Village to a city, town, village or county where the possession of the fireworks is authorized by permit or ordinance if the fireworks remain in the Village for less than 12 hours. A permit for the sale of fireworks authorizes such sales only at the location identified in the permit and only by persons or organizations otherwise legally qualified to sell products at the location where the fireworks are sold.

(5) FIREWORKS PERMITS. Permits for the use or sale of fireworks under subs. (3) and (4) shall be issued as provided in this subsection.

(a) Application. Applications for permits under this section shall be filed with the Village Clerk, on a form provided by the Clerk. The application shall be accompanied by a non-refundable application fee in an amount determined from time to time by the Village Board by ordinance or resolution. The application shall contain the following information:

1. The applicant's name, permanent residence address, telephone number, driver's license number and issuing state.;
2. The name, address and telephone number of any business entity on whose behalf the applicant is applying;
3. The address of the property where the permitted activities will be conducted;
4. Specific identification of the products to be sold, stored or used in the permitted activity;
5. A drawing or other adequate description of the methods and facilities to be used to store and secure the fireworks before, during and after the completion of the permitted activities, as applicable.
6. A statement whether the applicant or the business for which the application is made has been charged with or convicted of a violation of a state or federal law or municipal ordinance relating to the use, possession or sale of fireworks or firearms, or of any criminal offense, within the previous five (5) years, and the details of each such charge or conviction.

(b) Investigation of Applications. Upon receipt of each application, the Village Clerk shall immediately refer it to the Chief of Police who shall promptly make an investigation of the statements made in such application and report thereon to the Clerk. The Clerk shall also forward a copy of the application to the Fire Chief, who shall review the application and comment on any fire or other public safety concerns raised by the application. Upon receipt of such reports, the Clerk shall promptly forward them to the appropriate issuing authority, for a determination on the application.

(c) Decision on Applications. The issuing authority shall review the application and the reports of the Chief of Police and the Fire Chief and shall approve, deny or conditionally approve the requested permit within 45 days of the date of application and notify the Clerk of such decision. No application shall be approved, and no permit shall be issued, unless the issuing authority determines all of the following:

1. The application is complete, and all information required by sub. (5)(a) has been provided;
2. All information contained in the application appears to be accurate and is not materially misleading or otherwise untrue.
3. The applicant and any entity on whose behalf the applicant has applied have not been found guilty of violating any criminal law or ordinance involving the

improper handling, storage, sale, use or other activities involving fireworks, firearms or explosives, or which otherwise involved circumstances directly related to the fitness of the applicant to conduct the activities authorized by the permit, within the previous five (5) years;

4. No charges are currently pending against the applicant or any entity on whose behalf the applicant has applied, alleging a violation of a federal or state law or regulation, or any municipal ordinance, regulating the handling, storage, sale, use or other activities involving fireworks, firearms or explosives, unless the issuing authority has cause to believe that the charges cannot be proven.
5. Based on the application and the reports, it appears that the activities authorized by the permit will be conducted at a place and in a manner which adequately protects the public from significant risk of harm to persons or property and from unreasonable annoyance.
6. The storage or sale of fireworks will conform to the requirements of sub. (6)(e).

(d) **Issuing Authority.** Permits under this section may be issued as follows:

1. Permits for the use of fireworks shall be issued by the Clerk only upon authorization by the Village President. The Village President may request review and a recommendation by the Public Safety Committee.
2. Permits for the sale of fireworks as defined in §167.10(1), Wis. Stats. may be issued by the Clerk only upon authorization by the Public Safety Committee.
3. Permits for the sale of only those items described in subpars. 1 through 7 of sub. (2)(b) may be issued by the Village Clerk.

(e) **Conditions on Approval.** The issuing authority may impose any conditions deemed reasonably necessary to assure that the permitted activities conform to the representations contained in the application and all applicable laws, and to otherwise protect the public health, welfare and safety.

(f) **Appeals.** Any person aggrieved by the decision to grant or deny an application under this section may appeal to the Administrative Review Appeals Board under Chapter 17, not later than 20 days following the date of the decision.

(g) **Liability and Insurance.** No permit for the display of fireworks under this section shall be issued until the applicant has filed with the Village Clerk a certificate of liability insurance naming the Village of DeForest as an additional insured, in the amount of \$1,000,000 for bodily injury to one person; \$2,000,000 for injury to more than one person; and \$1,000,000 for damage to property, and has agreed in writing to indemnify and hold the Village of DeForest harmless from any claims or liability, including attorney fees and other defense costs, which may arise from the applicant's possession, storage or display of fireworks.

(h) **Posting of Permit Cards.** The Village Clerk shall issue a permit card to each permittee whose application is approved under this section, containing sufficient information to identify the permittee and specifying the permitted location, activities allowed, and the

dates during which they are allowed, by the permit. A copy of the permit shall be forwarded by the Clerk to the Fire Chief prior to the effective date of the permit. A permit card issued under this subsection shall be prominently posted at the site of the permitted activities at all times while the permit holder is engaging in the permitted activities.

(6) GENERAL REGULATIONS.

(a) A permit issued under this section is not transferable from person to person or from one location to another.

(b) No permit shall be issued under this section to any person under the age of 18 years.

(c) Smoking and the use of matches, lighters or other flame or spark producing devices, other than those intended solely for the ignition of fireworks at the time of use in accordance with a permit under sub. (3), shall not be allowed in or within 25 feet of any fireworks storage area or firework display areas requiring a permit under this section, and appropriate signs prohibiting smoking shall be posted accordingly.

(d) At least one portable fire extinguisher approved by the Fire Chief shall be located within 50 feet of all fireworks storage or display areas requiring a permit under this section.

(e) All fireworks possessed, displayed or sold under the authority of the permit shall be stored and/or offered for sale only within a completely enclosed, permanent building constructed of wood, brick, stone, block, concrete, metal or similar building products on a concrete or masonry foundation which is the principal structure on the parcel. This provision shall not apply to the temporary storage of fireworks at the site of a permitted fireworks display on the date of the display.

(7) ENFORCEMENT. Any law enforcement officer, the Fire Chief or any other fire inspector may immediately suspend any permit issued under this section if he or she finds a violation of the terms of the permit, or of any state, federal or Village law, regulation or ordinance governing the safe and lawful sale, storage, use or handling of fireworks. All permittees shall comply with all lawful orders of such officials and shall immediately discontinue all activities requiring a permit under this section when the required permit is suspended. Decisions by such officers may be appealed as provided in par. (5)(f) of this section.

5.27 COMBUSTIBLE MATERIALS PROHIBITED. No person shall permit on premises he controls any empty boxes, waste paper, excelsior, rags or other combustible materials in such quantities or manner as to create a fire hazard.

5.28 GUNPOWDER. No person shall keep or store more than 5 pounds of gunpowder at any place within the Village without the written permission of the Fire Inspector. Any dealer, permitted to keep at a place of business in excess of 5 pounds of gunpowder, shall not keep more than 50 pounds at any one time, and such gunpowder shall be kept in a safely constructed box painted yellow with the word "gunpowder" printed or painted thereon in black letters not less than 5 inches in height and equipped with handles so that the same may be readily moved in case of fire, and such box shall be kept in such part of the dealer's place of business as may be directed by the Fire Inspector.

5.29 DYNAMITE. No person shall keep or store within the Village any nitroglycerine, dynamite, giant powder or other explosives more violent than gunpowder without the written permission of the Fire Inspector or otherwise than in accordance with the conditions prescribed in such permission as granted and in no case shall more than 25 pounds of any such explosive be stored or kept within 300 feet of any dwelling or other occupied building. The Fire Inspector may direct the place and the manner of keeping the same and the precautions to be observed in connection therewith.

5.30 LIABILITY FOR DAMAGES. Nothing in this Chapter shall be construed to affect the responsibility of any persons owning, operating, or installing equipment, for injury to persons or damage to property caused by any defect therein, nor shall the Fire Chief, any Fire Inspector, the Village, any person, firm, company or agent(s) for the Village be deemed to have assumed any liability by reason of any inspection or re-inspection authorized herein or any permit issued as herein provided or by reason of the disapproval or approval of any equipment and/or system.

PART B – REGULATIONS GOVERNING
PUBLIC BUILDINGS AND PLACES OF EMPLOYMENT.

5.40 ADDITIONS TO, CHANGE OF USE OR REMODELED BUILDINGS.

(1) If fifty (50) percent or more of the total floor area of a building is remodeled and/or added, the entire building shall be brought into compliance with the construction requirements of this subchapter.

(2) If twenty-five (25) but less than fifty (50) percent of the total floor area of a building is remodeled and/or added, that part of the building which is remodeled and/or added shall be brought into compliance with the construction requirements of this subchapter.

(3) If less than twenty-five (25) percent of the total floor area of a building is remodeled and/or added, the construction requirements of this chapter need not be met unless the building includes dwelling units. If the total floor area includes dwelling units, that part of the building which is remodeled and/or added shall be brought into compliance with this subchapter.

(4) Paragraphs (1) - (3) shall be applied to the cumulative area of additions and/or remodeling occurring on or after the effective date of this ordinance.

(5) If the use of and/or contents of any existing building is changed in a manner that increases the fire hazards presented as determined by the Fire Inspector, the building shall be brought into compliance with this subchapter.

(6) Those portions, elements, systems or components of existing buildings and structures to be altered or modified on or after the effective date of this subchapter shall, to the extent the alteration, modification or the addition affects a building element or component relating to subject matters regulated by this subchapter, be designed, constructed and maintained in accordance with the applicable provisions of this subchapter in effect on later of the following:

(a) The date plans for the alteration or modification are conditionally approved by the Fire Inspector.

(b) The date the local building permit is issued.

(c) The date the replacement is initiated, where paragraphs (a) and (b) do not apply.

5.41 PLAN SUBMITTALS.

(1) No Fire Protection, Fire Alarm, Fire Control, and/or Fire Suppression System and/or any portion thereof shall be installed, altered, added on to, or have any appliance removed until plans therefore are submitted to and conditionally approved by the Fire Inspector and a permit issued under §5.42 of this subchapter submitted to the Fire Inspector for review and conditional approval.

(2) All plans for Fire Protection, Fire Alarm, Fire Control, and/or Fire Suppression Systems and/or any portion thereof must meet or exceed the applicable NFPA and Fire Inspector requirements.

(3) A minimum of three copies of each plan, specification, and required calculation shall be submitted. Two copies of each may be retained by the Fire Inspector.

(4) An AutoCAD electronic file of the plans shall also be submitted to the Fire Inspector with each submittal and upon the completion of each project with the as-built conditions.

(5) A completed permit application must accompany all plan submittals.

(6) All plan reviews shall be for general code compliance only. Plan reviews do not affect the responsibility and/or liability of any contractor, architect, engineer, designer or any other responsible party for the system(s) reviewed. The Village, its agents and/or firm or persons hired by the Village to review plans are not responsible for and do not accept any responsibility and/or liability for the system(s) reviewed.

5.42 PERMIT REQUIRED.

(1) A permit shall be obtained from the Fire Inspector prior to the start of installation and/or alteration of any portion of a Fire Protection, Fire Alarm, Fire Control, and/or Fire Suppression System.

(2) The permit application shall be signed by the individual assuming complete responsibility for the system(s) included in the plans.

(3) The permit application for all fire sprinkler and standpipe systems shall be signed by an individual holding a valid Wisconsin Automatic Fire Sprinkler Contractors License, and permits may be issued only to applicants so qualified.

(4) The applicable permit, inspection and/or plan review fees shall be submitted with each permit application. Plans will not be reviewed until all fee(s) have been received by the Fire Inspector.

(5) An operational permit issued by the Fire Inspector is required for the use of any building or portion thereof as a high-piled combustible storage area exceeding five-hundred (500) square feet.

(6) Any person who begins installation and/or alteration of any system regulated by this section prior to obtaining the required permit will be charged three (3) times the applicable permit fee.

(7) A permit shall be issued under this section by the Fire Inspector upon a review and determination by the Fire Inspector that the submitted application and plan complies with all applicable fire codes and the requirements of this Chapter.

5.43 INSPECTION AND TESTING.

(1) Every Fire Suppression System and Fire Alarm Systems required under this chapter shall be inspected by the Fire Inspector prior to having any of its parts concealed in any manner whatsoever. The Fire Inspector shall be provided forty-eight (48) hours' notice prior to any requested system inspection.

(2) The Fire Inspector shall witness all tests of Fire Control Systems, Fire Alarm Initiating Devices, Notification Appliances, and any other required system requiring an operational test. The Fire Inspector shall be given forty-eight (48) hours' notice prior to any system test.

5.44 NOTIFICATION OF USE OR OCCUPANCY CHANGE.

(1) Whenever there is a change in use or occupancy of a public building or place of employment, other than a building used exclusively for residential purposes both before and after the change, a new certificate of occupancy shall be required. The owner shall submit notification of the changes in writing to the Building Inspector within five working days after the change. The information shall consist of the following:

- (a) Name and address of occupancy;
- (b) Owner's name, address and phone number(s);
- (c) Agent's name, address and phone number(s);
- (d) A description of the nature of the change in use or occupancy; and,
- (e) Other information as required by the Building Inspector.

(2) No change shall be made in the use or occupancy of any building or structure, or any space within a building, structure, or space of a building or structure either in a different division of the same occupancy group or in a different occupancy group, unless the building or structure complies with the requirements of this Chapter and Chapters 14 and 15 of this Code for the new occupancy. This subsection shall not apply to temporary use changes authorized under sub. (4) or changes approved in advance by the Fire Inspector and Building Inspector which result in a new occupancy that will be less hazardous, based on life and/or fire risk, than the existing use.

(3) An inspection by the Fire Inspector shall be required for any new or changed use or occupancy, including temporary use changes. Upon an owner submitting notification of a change in use or occupancy to the Building Inspector, the Building Inspector shall promptly notify the Fire Inspector of the notification and the need for an inspection by the Fire Inspector, who shall promptly perform such inspection. Upon the Fire Inspector completing an inspection, and having determined that the new occupancy meets the requirements of this Chapter, a new certificate of occupancy shall be issued by the Building Inspector unless the Building Inspector determines that the building or structure is in violation of Chapter 14 or Chapter 15 of this Code.

(4) TEMPORARY USE. The Fire Inspector and Building Inspector may permit a building or portion of a building to be used temporarily in a manner that differs from the approved use for the building or space, or may approve a temporary building to be used by the public, subject to all of the following provisions:

(a) The Fire Inspector and Building Inspector shall determine the timeframe within which the temporary use is permitted, based on the extent to which hazards are created by the temporary use.

(b) The Fire Inspector shall enforce the maximum occupancy load as determined by the Building Inspector.

(c) The temporary use meets all applicable building and zoning requirements within Chapters 14 and 15 of this Code.

(5) FIRE SAFETY. The Fire Inspector may condition approval of a certificate of occupancy and temporary use on the installation of fire protection and control devices, and other life safety provisions that the Inspector shall determine reasonably necessary to minimize the risk to the occupants from fire or explosion.

5.45 REVOCATION OF PERMITS AND CERTIFICATES.

(1) The Fire Inspector shall revoke any permit or certificate issued under this chapter in any case where he or she finds that any of the conditions for the issuance have not been met or maintained or where there has been false statement or misrepresentation of any material fact in the application or plans on which the issuance was based.

(2) The Fire Inspector shall promptly notify the permit or certificate holder of the revocation and, if so requested by the permit or certificate holder, the effective date of the revocation shall be deferred pending a hearing before the Chief of the Fire Department. The decision of the Chief for revocation, following the hearing, shall be final subject to review under Chapter 17 of this Code.

5.46 SERVICE OF CORRECTION ORDERS.

(1) The service of correction orders shall be made upon the owner. Service may be accomplished by personal delivery to the owner or by leaving the order with a person apparently in charge of the premises. If an owner is absent from the jurisdiction of the Village, service may be accomplished by mailing a copy of the order to the owner's last known post office address.

(2) Conditions that pose imminent threats to life or safety of the occupants shall require immediate correction. All other violations shall be corrected within a specified time period or by a specified date, as the Fire Inspector shall determine.

(3) If an owner of any property, after issuance and proper service of an order by the Fire Inspector, fails to comply with the order, the Village may cause the work to be completed and the cost of such work shall constitute a special charge against the property upon which the work is done and shall be levied against such property pursuant to §66.0627, Wis. Stats.

(4) No person shall refuse to permit, or shall prevent or interfere with, any entry into or upon any building or premise by the Fire Inspector who is lawfully on the premises or interfere with any such inspection. If consent to enter onto personal or real properties which are not public buildings or places of employment, or to portions of public or places of employment buildings which are not open to the public, has been denied, the Fire Inspector shall seek a special inspection warrant under §66.0119, Wis. Stats.

5.47 VARIANCES.

(1) The Fire Inspector shall have the power to grant variances to any of the provisions of this subchapter upon application in writing by the owner or occupant, or an authorized agent, when there are practical difficulties preventing strict compliance with this subchapter, provided that the spirit of this subchapter shall be observed, public safety secured, and substantial justice done. The Fire Inspector shall enter the terms of such variance upon the records of the Village Building Inspector, and a signed copy shall be furnished to the applicant and the DeForest Windsor Fire Department.

(2) The Fire Inspector may require tests as proof that a requested variance will comply with the intent of this subchapter. Such tests shall be made by an approved agency at the expense of the person requesting approval of the variance.

(3) If technical expertise is unavailable within the Village because of new-technology, processes, products, facilities, materials and uses attending the design, operation or use of a building or premises subject to inspection by the Fire Inspector under this chapter, the Fire Inspector may require the owner or the person in possession or control of the building or premises to provide a technical opinion and report on any matter relevant to fire safety as determined by the Fire Inspector. The opinion and report shall be prepared by a qualified engineer, specialist, laboratory or fire safety organization, acceptable to the Fire Inspector, and shall analyze the fire safety properties of the design, operation or use of the building or premises and the facilities and appurtenances situated thereon, and prescribe the necessary recommended changes. The Village may independently acquire technical assistance from any consultant and may charge the cost thereof to the applicant for the variance.

(4) Village approval of a variance does not obviate the need of an owner or occupant to seek approval of the variance by the Department of Safety and Professional Services, pursuant to Wis. Admin. Code § SPS 314.01(4), Fire Prevention.

5.48 MISCELLANEOUS CONSTRUCTION PROVISIONS.

(1) INSPECTIONS, TESTING AND RECORD KEEPING.

(a) The Fire Inspector shall inspect all fire alarm system installations. All equipment must be inspected prior to any equipment being installed. The Inspector must be notified at least forty-eight (48) hours prior to any fire alarm component being concealed.

(b) The Fire Inspector may witness all acceptance tests. The Inspector must be notified within forty-eight (48) hours prior to any testing.

(c) Two copies of the completed fire alarm system record of completion required by NFPA 72 must be provided to the Fire Inspector prior to final acceptance.

(d) Permanent records shall be provided in accordance with NFPA 72. This includes a completed "Fire Alarm System Inspection and Testing" form.

(2) FIRE DEPARTMENT ACCESS ROADS, FIRE LANES, AND PUMPER PADS. Unobstructed fire lanes that are accessible from a public road shall be provided for every building or portion of a building in accordance with this subchapter.

(a) Fire lanes shall have an unobstructed width of twenty-four (24) feet edge of the lane closest to the building at least 10 feet from the building.

(b) It shall be unlawful for any persons to park a motor vehicle on, or otherwise obstruct any fire lane.

(c) Where any part of a multi-family building is two (2) or more stories in height, the minimum unobstructed width of the fire lane parallel to one side of the building shall be twenty (20) feet.

(d) For occupancies where a special hazard exists or where the size or configuration of the building or the building contents limits normal fire apparatus access, the Fire Inspector may require the installation of a fire pumper pad.

(e) Fire pumper pads shall be located outside of the building collapse zone in an area acceptable to the Fire Inspector.

(3) FIRE HYDRANTS.

(a) INTENT: The intent of this section is to insure adequate water supply for firefighting purposes to structures, buildings, and other premises. For the purpose of placing hydrants, "normal access routes" are defined as pavement, sidewalks, streets, driveways and paths leading to a building that are clear and maintained year-round. A normal access route does not include grass, parking stalls, ditches, hills, shrubs, flower beds, fences, walls or any other area not typically used for ingress or egress to a building.

(b) WHERE REQUIRED: Fire hydrants shall be provided as follows:

1. Buildings. Any building or structure, other than single and two family dwellings and structures not intended for human habitation or the storage of

personal property, hereafter erected, shall have installed at the owner's expense, approved fire hydrants. Hydrants shall be located so that no part of the building is more than three hundred (300) feet from an approved hydrant by normal access routes. One hydrant shall be located within one hundred-fifty (150) feet of each Fire Department sprinkler or standpipe connection in addition to the required hydrant fulfilling the three hundred (300) foot coverage rule. Required hydrants must be free standing and shall be installed not less than forty (40) feet from the building exterior wall and not closer than fifty (50) feet to another hydrant. Public hydrants across divided roads or highways shall not be used to fulfill the hydrant requirements for the building or premises. The Fire Inspector shall approve the actual location of all private hydrants. A copy of the building plan including site plans shall be provided to the Fire Inspector for Fire Department use, in addition to any copies or building plans required by the Building Inspector.

2. Mobile home parks. Any new mobile home or trailer park, and any mobile home or trailer park which expands by adding additional units or area to the present court site, shall provide an approved fire hydrant within three hundred (300) feet, as measured along normal access routes, of each building or unit within the park.

(c) APPROVED FIRE HYDRANT. Every approved fire hydrant shall have two $2\frac{1}{2}$ " connections with National Standard threads and one 5" Storz connection and an operating nut size approved by the Fire Inspector. The connecting water line between the public water main and the approved fire hydrant shall not be less than six inches. All fire hydrants shall be installed in compliance with standards of the Village Water Utility and the NFPA. All fire hydrants shall be installed and maintained in such a manner and location so as to be accessible at all times to the Fire Department apparatus. All hydrants shall be installed, tested, in service, and accessible to the Fire Department prior to any above ground construction or combustibles being brought onto the site.

(d) HYDRANT FLOWS. Hydrant flows shall be as required under the NFPA and the rules of the Village Water Utility. Hydrants shall be color coded to designate their flowage rates, as set forth by the NFPA.

(e) REPLACEMENT OF EXISTING FIRE HYDRANTS. When any fire hydrant is replaced in the Village the new fire hydrant shall be an approved fire hydrant complying with the standards set forth in par. (c).

5.49 OPEN FLAMES IN RETAIL ESTABLISHMENTS PROHIBITED. No person shall light a match or other flame-producing device in any retail mercantile establishment except in areas approved for such purposes by the Fire Inspector. It shall be the duty of the person in charge of such an establishment to enforce the regulations of this section. A plainly printed notice of the provisions of this section shall be posted in a conspicuous place in all retail mercantile establishments.

5.50 CHRISTMAS TREE SALES. For the purpose of this paragraph, the following minimum standards shall apply to the storage, handling, and display of live Christmas trees and foliage:

(1) Trees and foliage shall be stored not closer than ten feet from any gasoline pump or other device for the storage or transfer of petroleum products.

(2) Aisles or clear spaces of not less than three feet shall be maintained in the storage area at all times.

(3) A fire extinguisher with a "2A-10BC" rating or greater shall be provided by the merchant for each seventy-five (75) feet of travel, display and/or storage areas.

(4) All storage and sales of live Christmas trees and foliage shall be held outside of buildings.

(5) It shall be unlawful to operate any ignition device, or to smoke or carry lighted smoking materials or open flames in areas where live Christmas trees or foliage are displayed, sold, or stored. The person in charge of the Christmas tree sales shall post a "NO SMOKING" sign in locations designed to give persons entering the area a notice of this regulation.

5.51 KEY BOX REQUIREMENTS.

(1) The following structures shall be equipped with an access box at or near the main entrance or such other location as required by the Fire Inspector:

(a) Commercial or industrial structures protected by an automatic alarm system or automatic fire suppression system, or which are secured in a way that restricts access during an emergency.

(b) Multifamily residential structures that have restricted access through locked doors and have a common corridor for access to the living units.

(c) Nursing homes, CBRFs and other health care facilities.

(d) All educational occupancies.

(e) Any other structure determined by the Fire Inspector to present unreasonable difficulties in obtaining prompt access during an emergency.

(2) All newly constructed structures subject to this section shall have the access box installed and operational prior to initial occupancy. All structures in existence on the effective date of this section and which are subject to this section shall install an access box within a reasonable time as determined by the Fire Inspector.

(3) The owner of a structure required to have an access box shall keep the following inside the box:

(a) Keys to locked points of ingress and egress whether on the interior or exterior.

(b) Keys to all locked mechanical equipment and electrical and elevator control rooms.

(c) All keys needed to open any alarm panels.

- (d) Floor plans or maps as required by the Fire Inspector.
 - (e) Keys to other areas as determined necessary by the Fire Inspector to assure sufficient access for firefighting purposes.
- (4) All items required to be kept in the access box shall be the most currently used and must be continually updated.
- (5) The size and type of required access box shall be determined by the Fire Inspector.
- (6) The Department shall be provided with a key for each access box, and a new key shall be provided any time the lock for the access box is changed so as to require a different key to open the box.
- (7) Notwithstanding the provisions of pars. (1)-(6), any building or site that has twenty-four hour, seven-days per week guard service and any occupancy that remains open for business twenty-four hours per day, seven-days per week, is exempt from the access box requirement unless otherwise ordered by the Fire Inspector.

5.52 FLAMMABLE, COMBUSTIBLE, AND HAZARDOUS MATERIALS.

- (1) The following items shall not be stored in any multi-family building except in locations, and under conditions, approved by the Fire Inspector:
 - (a) Charcoal, unless stored in a metal container equipped with a metal cover.
 - (b) Oily rags or oily dust mops.
 - (c) Flammable liquids, other than small quantities of household cleaning products, painting supplies and similar consumer items stored in their original containers and maintained for use by individual residents.
 - (d) Bottles gases, including propane, acetylene, oxygen or other substances of a similar combustible nature.
 - (e) Gasoline, diesel fuel and other motor fuels, whether stored in separate containers or contained within motor driven equipment.
 - (f) Dangerous or hazardous amounts of flammable, combustible or explosive material as determined by the Fire Inspector.
 - (g) Dangerous accumulations of rubbish, waste paper, boxes, shavings, or other highly flammable materials as determined by the Fire Inspector.
 - (h) Dangerous accumulations of dust or waste materials in HVAC systems, dryer ducts or other locations susceptible to ignition sources.

SUBCHAPTER III: ENFORCEMENT AND APPEALS

5.60 PENALTIES.

(1) Any person who violates any of the provisions of this Chapter, or who fails to comply with any order made hereunder, or who builds in violation of any detailed statement of specifications or plans submitted and conditionally approved hereunder, or any permit issued hereunder, shall for each and every violation and noncompliance be subject to a forfeiture as provided in §20.04.

(2) False Alarms. If the Fire Department responds to three or more false alarms to any parcel of real property in any 12-month period, the owner of such property shall be liable to the Village for the actual cost of equipment and personnel that was used to respond to the alarm.

5.61 APPEALS.

(1) Except as it relates to firework permits under 5.26 of this Chapter, any person aggrieved by a decision of the Fire Inspector or any other administrative officer in interpreting or applying this Chapter may appeal the decision as provided in this section.

(2) Appeals shall be submitted in writing to the Fire Chief for a review of the initial determination within 30 days from the date of the decision appealed from.

(3) The decision of the Fire Chief shall be final, subject to review under Chapter 17 of this Code.

CHAPTER 6 **EMERGENCY GOVERNMENT**

6.01 Policy and Purpose.....	6-1
6.02 Emergency Preparedness Commission	6-2
6.03 Emergency Preparedness Coordinator	6-2
6.04 Utilization of Existing Services and Facilities.....	6-3
6.05 Mutual Aid Agreements	6-3
6.06 Emergency Regulations	6-3
6.07 Local Emergencies	6-3
6.08 Obstruction of Emergency Operations.....	6-3
6.09 Succession of Officers	6-3
6.10 Penalty	6-4

6.01 POLICY AND PURPOSE.

(1) Emergency preparedness shall mean the preparation for, and the carrying out of, all emergency functions, which the Village is capable of performing, during and after an emergency.

(2) The Village recognizes that several types of hazards pose a threat, significant in frequency and/or magnitude, to lives, property or environment. These include: tornadoes, down bursts and other summertime severe storms; floods; ice storms; blizzards; drought; earthquakes; fires; explosions; hazardous material releases to the air, ground or water during transportation or at a fixed location, including radiological releases; the outbreak of contagious or infectious diseases; the environmental presence of viral or bacterial pathogens likely to cause widespread serious illnesses; accidental or intentional nuclear detonations due to terrorist or military activity; aircraft crashes; other major accidents; and civil disturbances.

(3) Consequences in major emergencies include: mass casualties; damage to and destruction of homes, facilities; vehicles and other property; disruption of power, fuel, communications, water and other vital services; overburdening of the emergency medical and overall health care systems; damage to the infrastructure and environment; looting and other disruption of law and order; disruption of government functions and economic and financial efforts. Additional effects on Village officials and departments include, complex operating conditions; severe stress and fatigue; potential staffing shortages due to injury, illness or the risk of transmission of disease; and intense scrutiny of the preparedness and response efforts.

(4) The Village Board finds that the public safety, convenience and welfare require:

(a) The creation and maintenance of a commission to oversee the Village's emergency preparedness efforts.

[Am. 23-12, Eff.]

(b) Provisions for the exercise of necessary powers and to insure the coordination of all Village and private resources during emergencies; and

(c) Provisions for the rendering of cooperation and mutual aid between this Village and other political subdivisions of the State.

(5) It is further declared to be the purpose of this chapter and the policy of the Village that all emergency functions be coordinated to the maximum extent practicable with existing services and facilities of this Village and with comparable functions of the federal, state and county governments and other political subdivisions, and of various private agencies to the end that most effective preparation and use may be made of manpower, resources and facilities for dealing with any disaster that may occur.

[Am. 20-09; Eff. 4-3-20]

6.02 [Repld. 23-12, Eff.]

6.03 EMERGENCY PREPAREDNESS COORDINATOR.

(1) APPOINTMENT: The Emergency Preparedness Coordinator shall be the Chief of Police.

(2) POWERS AND DUTIES: The Coordinator shall coordinate all activities involved in emergency preparedness within the Village and shall maintain liaison and cooperation with emergency preparedness agencies and other organizations of other political subdivisions and of the state and federal governments, and shall participate in county and state emergency preparedness activities upon request, and shall have such additional authority, duties and responsibilities as authorized by this chapter and as may from time-to-time be required by the Village Board.

The Coordinator shall, under the direction and control of the Public Safety & Security Commission, direct the preparation of an Emergency Response Plan

outlining the emergency preparedness procedures of the Village. When the Village Board has approved the plan and the same has been signed by the Village President, it shall be the duty of all departments and agencies of the Village to perform the duties and functions assigned by the plan.

The Coordinator shall, under the direction and control of the Commission, direct the preparation of a comprehensive general plan for the emergency preparedness of the Village. When the Village Board has approved the plan and the same has been signed by the Village President, it shall be the duty of all agencies of the Village to perform the duties and functions assigned by the plan.

[Am. 23-12, Eff.]

6.04 UTILIZATION OF EXISTING SERVICES AND FACILITIES. In developing the Emergency Response Plan, the Commission shall utilize the services, equipment, supplies and facilities of the existing departments and agencies of the Village to the maximum extent practicable. The officers and personnel of all such departments and agencies shall cooperate with and extend such services and facilities as are required by the Commission.

[Am. 23-12, Eff.]

6.05 MUTUAL AID AGREEMENTS. This chapter shall not affect any existing mutual aid agreement between the Village and any other political subdivision or agency .

[Am. 20-09; Eff. 4-3-20; Am. 23-12, Eff.]

6.06 EMERGENCY REGULATIONS. (a) Local Regulations. Whenever necessary to meet an emergency for which adequate regulations have not been adopted by the Village Board, the Village President may by proclamation promulgate and enforce such orders, rules and regulations relating to the conduct of persons and the use of properties as shall be

necessary to protect the public peace, health and safety, and preserve lives and property and to ensure the cooperation necessary in emergency situations. Such proclamations shall be posted in three (3) public places and may be rescinded by the Village Board by resolution at any time.

[Am. 20-09; Eff. 4-3-20]

(b) State Emergency Orders. No person shall violate any order, rule or regulation issued by or under the authority of the governor under Chapter 323 of the Wisconsin Statutes relating to an emergency declared under that chapter or by a local health department under Chapter 252 of said statutes. Any violation of such orders, rules or regulations within the Village shall be deemed a violation of this Chapter.

[Am. 20-09; Eff. 4-3-20]

6.07 LOCAL EMERGENCIES.

(1) The Village Board may, by ordinance or resolution, declare a state of emergency to exist within the Village whenever conditions arise by reason of war, conflagration, flood, heavy snow storm, blizzard, catastrophe, disaster, riot, or civil commotion or acts of God, and including conditions which, without limitation because of enumeration, impair transportation or other vital facilities of the Village. Such ordinances or resolutions shall limit the period of the emergency to the time during which the emergency conditions exist or are likely to exist.

(2) Whenever, because of emergency conditions as described in sub. (1), the Village Board is unable to properly meet, the Village President may exercise the powers of the Village Board which, in his or her discretion, appear necessary and expedient to address the emergency conditions. Any proclamation issued by the Village President under this paragraph shall be subject to ratification, alteration, modification or repeal by the Village Board as soon as it can meet, provided, however, that no subsequent action by the Board shall affect the prior validity of the proclamation.

(3) Upon the declaration by the Governor, The Village Board or Village President of a state of emergency, the Emergency Preparedness Coordinator or other official designated by the Village Board shall issue all necessary proclamations as to the existence of such state of emergency and shall issue such disaster warnings or alerts as shall be required in the Emergency Response Plan. All Village agencies shall take action in accordance with the plan after the declaration of an emergency or the issuance of official disaster warnings.

6.08 OBSTRUCTION OF EMERGENCY OPERATIONS. It shall be unlawful for any person to willfully obstruct, hinder or delay the enforcement of any order, rule, regulation or plan issued pursuant to this chapter, or to do any act forbidden by any order, rule regulation or plan issued pursuant to the authority contained in this section.

6.09 SUCCESSION OF OFFICERS.

(1) DESIGNATION OF SUCCESSORS. The Village President, subject to the confirmation by the Village Board, shall annually designate not less than three (3) individuals who shall automatically succeed to the position of Village President and Emergency Preparedness Coordinator in the event that such officers are unavailable, as defined in §166.08 (2) (e), *Wis. Stats.* at the time an emergency is or could be declared pursuant to sec. 6.07 of this ordinance or pursuant to state law. At the time of the making of such appointments, the president shall specify the order in which the emergency interim successors so named shall automatically succeed to the respective offices.

(2) POWERS OF SUCCESSORS. Any emergency interim successor who shall assume office pursuant to sub. (1) shall possess all the powers and duties of the office to which he or she has succeeded for such time as the emergency conditions exist or until the officer or a preceding emergency interim officer shall again become available to exercise the powers and discharge the duties of his or her office.

6.10 PENALTY. Any person violating any provision of this chapter shall, upon conviction thereof, be subject to a forfeiture not to exceed five hundred dollars (\$500.00) plus the cost or prosecution.

CHAPTER 7 STREETS AND SIDEWALKS

7.01 Street and Sidewalk Grades	7-1
7.02 Street and Sidewalk Excavations and Openings	7-1
7.03 Obstructions and Encroachments	7-4
7.04 Snow and Ice Removal	7-4
7.05 Sale or Display of Merchandise Prohibited	7-4
7.06 House Numbering System Established	7-5
7.07 Utility Extensions Required	7-5
7.071 Underground Electric Distribution Systems	7-5
7.08 Special Improvements and Assessments	7-6
7.09 Construction Standards	7-8
7.10 Permits	7-9
7.11 Moving Buildings	7-10
7.12 Street Rights of Way	7-10
7.13 Penalty	7-10

7.01 STREET AND SIDEWALK GRADES.

(1) ESTABLISHMENT. The grades of all new streets, alleys, and sidewalks shall be approved by the Village Board during review of the engineering design for said streets, alleys and sidewalks.

7.02 STREET AND SIDEWALK EXCAVATIONS AND OPENINGS.

[Repl. & Recr. 09-25, Eff. 2-1-10]

(1) PERMIT REQUIRED. No person, shall make, or cause to be made, any excavation in or under any street, alley, or sidewalk or engage in other construction activities on public lands or within the public right of way without first obtaining a permit from the Building Inspector. The provisions of this section shall apply to those portions of private driveways that are within the public right of way. This section shall not apply to employees or contractors of governmental entities performing work in public rights-of-way over which such governmental entity has jurisdiction.

(2) APPLICATION FOR PERMIT. Such permit shall be issued only upon a written application signed by the applicant, which shall include the following:

(a) a description and location of the work proposed to be performed with such certainty that the same may at all times be readily located;

(b) a complete copy of the construction plans for the proposed work;

(c) the purpose for which said excavation is to be made;

(d) the date and time it is proposed to begin making the same; and

(e) the duration of time from making of the excavation to completion of all repair to the area.

(3) FEE. The fee for such permit is \$25.00 and shall accompany the application.

(4) GUARANTEE. (a) The application shall provide that, in consideration of granting the permit to make such excavation, such applicant will leave the street, sidewalk, or alley in as good condition as the same was in when the work was commenced, and will keep the place where such excavation is made properly guarded at all times and lighted by night so as to sufficiently warn travelers. Such application shall further provide that such applicant will save the Village harmless from any damages, costs, and charges that may accrue from the applicant's excavation or alteration of such street, sidewalk, or alley.

(b) The person to whom such permit is issued shall be responsible for all defects occurring within one year from the completion of the work and shall be liable for all damages resulting from such defects. The permittee hereunder shall repair all such defects during the said one year period. Any cost of maintenance or repair incurred by the Village during the one year period shall be promptly reimbursed by the permittee.

(c) Whenever the Village Administrator shall find that any such work has become defective within one year of the date of completion, he or she shall give written notice thereof to the contractor or to his surety stating the defect, the work to be done, the cost therefor to the extent known and the period of time deemed by the Village Administrator to be reasonably necessary to complete said work. After receipt of such notice, the contractor or the surety must within the time specified, repair the defect or indemnify the Village for the cost of doing the work as set forth in the notice.

(5) ISSUANCE OF PERMIT. Upon receipt of an application under this section, the Building Inspector shall consult with the Village Forester with respect to the potential impact of the proposed work on any tree within or adjacent to the location of the work. If the Building inspector determines that all requirements of this Code will be met, and that the construction will be completed without substantial risk to the public health, safety or welfare, he or she may issue the permit.

(6) TERMS AND CONDITIONS OF PERMIT. Any permit issued under this section shall be conditioned on compliance with all general ordinances of the Village and any specific conditions determined necessary by the Building Inspector to protect the public health, safety and welfare. Such conditions may include any conditions or special requirements recommended by the Village Forester to preserve or protect any public trees or trees on private property that may be affected by the work. All permits issued under this section shall state a termination date established by the Building Inspector which shall be not later than twelve (12) months from the date of issuance. The term of any permit may be extended prior to its expiration by written approval of the Building Inspector.

(7) GENERAL PERMIT FOR REPAIR BY UTILITY PROVIDERS. (a) General Provisions. Any firm or corporation which owns or operates facilities for the distribution of natural gas, electricity or telecommunications service may apply for a general permit valid for up to one year. The purpose of such permit shall be to expedite the process of routine repair or replacement of facilities by eliminating the requirement for a separate written permit for each repair occurrence. Such permit shall be valid for the term expressed in the permit. General permits issued under this subsection shall not authorize new construction of any facilities without a separate application and permit for such work.

(b) Conditions of General Permits. All general permits issued under this subsection shall be conditioned upon:

1. Notification. The permittee shall notify the Director of Public Services prior to commencing a necessary repair, and shall provide the location, date and time of the work. Notification may be accomplished through the Digger's Hotline process. When a Digger's Hotline request is received, the village utility staff shall provide a copy of the notification to the Director of Public Services and the Village Forester. Emergency repairs necessary to protect life and property, and other necessary repairs during non-business hours shall be exempt from pre-notification but shall be reported on the next business day.
2. All work performed pursuant to a general permit issued under this subsection shall be subject to the standards and specifications set forth in §16.24 and any special conditions specified in the permit.

[Am. 15-33, Eff. 07-07-15]

(8) DISPLAY OF PERMIT. Any person receiving a permit under this section shall exhibit said permit to any police or other officer of the Village upon demand. General permits issued under sub. (8) need not be displayed at the site of the work, but shall be provided as soon as practicable following a request.

(9) EMERGENCIES. In case of emergency, the Village Administrator, the Chief of Police, the Director of Public Services, or the designated Public Works Department emergency contact employee may waive the requirements of this section.

[Am. 15-33, Eff. 07-07-15]

(10) EXCAVATIONS IN UNPAVED STREETS. When excavations are made in macadam streets or unpaved streets and alleys, they shall be made and filled in the following manner: The excavation shall be filled with gravel, sand, or crushed stone, firmly tamped or flushed with water, and all earth, stone or other material excavated shall be hauled away by the person authorized to make the excavation unless otherwise permitted in writing by the Village. The surface shall be restored with material similar to the surrounding pavement, compacted or rolled, and left in an even, level condition.

(11) EXCAVATIONS IN PAVED STREETS. When excavations are made in paved streets they shall be made and repaired in the following manner: The opening in the pavement shall be sawed and the pavement base must be at least 8 inches larger in all directions than the size of the trench to be excavated so that there may be a shoulder of solid earth 8 inches wide on all sides of the opening to support the new pavement. Should the sides of the trench erode or collapse during the progress of the work, additional pavement must be removed so the 8 inch shoulder is maintained. The excavation shall be filled to the bottom of the pavement section with gravel, sand or crushed stone, firmly tamped, and all stone, earth and other material excavated shall be hauled away by the person authorized to make such excavation unless otherwise permitted in writing by the Village. The pavement section shall be restored with material to match the surrounding pavement and shall be finished to an even, level surface.

(12) INSPECTIONS. All work shall be inspected by the Village for workmanship and materials. Any work found to be defective shall be promptly repaired or replaced by the

permittee. The person to whom such permit is issued shall be responsible for arranging for the Village to inspect all work.

7.03 OBSTRUCTIONS AND ENCROACHMENTS.

(1) **PROHIBITED.** No person shall encroach upon or in any way obstruct or encumber any street, alley, sidewalk, public grounds, land dedicated to public use, or any part thereof, or permit such encroachment or encumbrance to be placed or remain on any public way adjoining the premises of which he is the owner or occupant, except as provided in sub. (2) below.

(2) **EXCEPTIONS.** The prohibition of sub. (1) above shall not apply to the following:

(a) Public utility encroachments duly authorized by state law or the Village Board.

(b) Temporary encroachments or obstructions authorized by permit granted pursuant to §66.0425, *Wis. Stats.*

(c) Excavations and openings permitted under sec. 7.02 of this Code.

7.04 SNOW AND ICE REMOVAL.

[Am. 18-05, Eff. 2-15-18]

(1) The owner or occupant of any lot or parcel of land in the Village abutting a public sidewalk shall keep such sidewalk clear of snow and ice.

(2) No person shall deposit or cause to be deposited any snow or ice upon any public sidewalk, alley, public place or street. Snow shall not be piled at or near intersections so as to obstruct the view of pedestrians or operators of motor vehicles.

(3) The Village may summarily remove any snow or ice from a sidewalk and charge the cost of said removal to the abutting property owner, pursuant to §66.0907, *Wis. Stats.*, as a special tax to be levied.

(4) The cost of snow and ice removal incurred by the Village because of a violation of sub. (2) may be charged to the owner of the property from which the snow and ice was removed. If not paid within 30 days, such charge shall be extended upon the current or next tax roll as provided in §66.0627(4), *Wis. Stats.*

(5) In addition to the remedies provided in this section, the Village may bring a forfeiture action against any person violating sub. (1) or (2).

7.05 SALE OR DISPLAY OF MERCHANDISE PROHIBITED. No person shall display, sell, or offer to sell anything of value or service of any kind, on any street, sidewalk or alley within the Village. No person shall display, sell, or offer to sell anything of value or service of any kind within a public park unless authorized by the Village Board.

7.06 HOUSE NUMBERING SYSTEM ESTABLISHED.

(1) The Zoning Administrator or his/her designated alternate shall maintain an official house numbering record for the Village and shall establish and place on file a number for each parcel created within the Village or annexed into the Village.
[Am. 15-33, Eff. 07-07-15; [Am. 21-01; Eff. 2-12-21]

(2) Each property owner shall affix to his/her house or other building having a street address, evidence of his official number where it will be plainly visible from the street.

(3) For new construction, each owner, contractor, or builder shall affix to the house or other building having a street address, evidence of the official number where it will be plainly visible from the street, prior to the issuance of the occupancy permit.

7.07 UTILITY EXTENSION REQUIRED. All utility, water and sewer mains and service laterals to the abutting property shall be installed before any street is permanently surfaced or resurfaced.

7.071 UNDERGROUND ELECTRIC DISTRIBUTION SYSTEMS.

(1) PURPOSE. The Board of Trustees of the Village of DeForest does hereby declare it to be the public policy of the Village of DeForest to require underground electrical facilities. The exercise of police power to implement this public policy is based on the public benefit received including (but not limited to) the following reasons:

- (a) Clearing scenic views;
- (b) Improving civic appearance;
- (c) Removing safety hazards which are a danger to pedestrians and motorists;
- (d) Overcoming the threat of temporary loss of service due to high winds and ice conditions;
- (e) Eliminating damage to overhead equipment by wildlife;
- (f) Eliminating damage to wildlife by overhead equipment;
- (g) Eliminating trimming of street trees required to prevent damage to overhead wires.

This section is adopted to facilitate the orderly replacement of and/or transfer from overhead distribution systems consistent with desirable aesthetic goals and sound economic practices.

(2) DEFINITIONS. In this section the following definitions shall apply:

- (a) The term "distribution system" means electric lines and associated facilities, designed and operated at less than 40,000 volts, that deliver power to customers.
- (b) The term "underground" means below the surface of the earth.

(c) The term "construct" means the building, erection, placement, replacement or extension of a distribution system.

(3) UNDERGROUND CONSTRUCTION REQUIRED.

(a) All distribution systems, including extensions of existing systems, constructed on or after the effective date of this ordinance in the Village of DeForest shall be constructed underground unless the topography, soil, rock or other physical conditions would make underground construction unreasonable or impractical.

(b) Temporary overhead facilities may be installed to serve a construction site or where necessary because of severe weather conditions. Within a reasonable time after weather conditions have moderated or upon completion of the installation of the permanent underground distribution system, such temporary facilities shall be replaced by said underground system and the temporary overhead facilities removed.

(4) AREA OF APPLICATION. All territory within the limits of the Village of DeForest shall be subject to the provisions of this section.

(5) SEVERABILITY. If any subsection, sentence, clause or phrase of this section is for any reason held to be invalid or unconstitutional by reason of a decision of any court of competent jurisdiction, such decision shall not affect the validity of any other subsection, sentence, clause or phrase hereof.

(6) PENALTY. Any person, firm or corporation who shall violate any of the provisions of this section shall be subject to a forfeiture of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00) for each and every violation thereof. Each day of violation shall constitute a separate offense. The assessment of a forfeiture under this subsection shall not preclude the Village of DeForest from seeking injunctive relief or any other remedy available under the laws of the State of Wisconsin.

[Cr. 96-27, Eff. 6-7-96]

7.08 SPECIAL IMPROVEMENTS AND ASSESSMENTS.

(1) GENERAL APPLICATION.

(a) In the case of any public improvement constructed or installed in exercise of the police power or special taxing power of the Village, as may from time to time be determined by the Village Board, the property specially benefitted may be assessed pursuant to the provisions of this section as authorized by §66.0701 *Wis. Stats.*

(b) The total cost of any special improvement to be paid in whole or in part by special assessment shall include the direct and indirect costs reasonably attributable thereto including, but not limited to, materials and supplies, labor, equipment, site preparation and restoration, damages occasioned by the special improvement, interest on bonds or notes issued in anticipation of the collection of assessments, and a reasonable charge for engineering, legal, and administrative costs.

(c) The assessment for any special improvement shall be based upon the cost as defined in paragraph (b) above and shall be apportioned among the individual parcels specially benefited. Such apportionment shall be computed on a reasonable basis if

based on the Village's police power, and shall not exceed the value of the benefits accruing to the assessed parcel if based on the taxing power.

(2) SIDEWALK REPAIR OR REPLACEMENT. In any case where the Village Board determines that any public sidewalk is defective, unsafe or otherwise in need of repair or replacement, the Village will cause the necessary work to be completed at Village expense.

(3) PROCEDURE. The procedure for levying special assessments under this ordinance shall be as specified in §66.0703(4)-(11), *Wis. Stats.*

(4) PAYMENT BY INSTALLMENTS.

(a) The Village Board may, as part of its resolution approving any special assessment, require payment of assessments in full or may allow payment by installments. Should the Board allow payment by installments, the owner of property against which an assessment has been levied shall pay such assessment in up to ten (10) equal annual installments as specified in the resolution, with interest accruing on the unpaid balance as provided in par. (b), unless the owner elects to make payment in full. Said election shall be made in writing to the Village Clerk within thirty (30) days after publication of an installment assessment notice as provided in §66.0715(3)(c), *Wis. Stats.* An election must be signed by all owners of the assessed parcel, and any election made shall apply only to the parcels specified in the election. Any owner making such election shall make payment of the entire assessment, along with any accrued interest, on or before November 1 next following the date of the election. The Clerk shall, as to each lot or parcel for which a timely election is made, enter the amount of the installment due each year on the tax roll until all installments have been entered.

(b) Except as provided in sub. (5)(c), interest on assessments payable in installments pursuant to par. (a) shall accrue at a rate determined as follows:

1. For projects for which the Village's cost is fully financed through bonds, notes or other third party financing, at a rate equal to the rate paid by the Village to finance the improvements for which the assessment is levied plus 1%.
2. For projects for which the Village's cost is fully paid from the Village's general and/or utility funds as part of its annual budget, at a rate of 10% per annum.
3. For projects for which the Village's cost is partially funded through third party borrowing and partially through the Village's general and/or utility funds, at a rate determined by the Village Board as part of the resolution levying the special assessment.

(5) DEFERRAL OF ASSESSMENTS.

(a) General. The Village Board may, as part of its resolution approving the levy of special assessments, defer the due date for payment of the assessment against any parcel of land while no use is made of the public improvements for which the assessment has been levied.

(b) Period and Terms of Deferral. The period and terms of deferral shall be determined by the Village Board as part of the final assessment resolution. Any deferred

assessment under this section may be prepaid at any time and in all cases shall be due and payable in full on the earliest of:

1. The expiration of the deferral period specified in the resolution levying the assessment;
2. January 31 next following the date the parcel ceases to meet the criteria for which the deferral was granted;
3. The date of the occurrence of any activity or event relating to the parcel as specified in the resolution levying the assessment; or
4. The date of issuance of a tax certificate for the parcel against which the assessment has been levied.

(c) Accrual and Payment of Interest. Interest shall accrue on the outstanding balance of any assessment deferred for five (5) years or less under this subsection, or for which annual interest payments are required, at an annual interest rate calculated as interest for installments in accordance with sub. (4)(b). In the event the Village allows for deferral of all or any part of a special assessment for longer than five (5) years, or on any assessment for which the interest is not paid in annual installments, the interest rate shall be as established by the Village Board as part of the resolution.

(6) **DEFAULT.**

Upon the default of any owner to pay any installment of any special assessment or any accrued interest when due, or to pay the entire assessment by the due date after making an election to do so under sub. (4)(a), the entire assessment for the parcel shall become immediately due and payable. After default, all amounts due shall bear interest at the rate of 12% per annum from the due date for the payment until paid in full. Any amounts in default shall be extended on the tax roll as a delinquent tax and collected in the same manner as delinquent real estate taxes.

[Cr. 02-05, Eff. 2-12-02; Am. 12-17, Eff. 8-7-12]

7.09 CONSTRUCTION STANDARDS.

(1) **STREETS.** Streets shall be constructed in accordance with design approved by the Village Board.

(2) **CURB AND GUTTER.** Any property owner may install, repair, or replace any curb or gutter on a street abutting his or her property, at his or her own expense, upon approval of plans therefor by the Village. Such owner shall submit to the Building Inspector plans and specifications describing the proposed installation, repair, or replacement with sufficient detail to permit the Village or its consultants to determine whether the proposed construction will meet all applicable Village standards.

(3) **SIDEWALKS.**

(a) **Subgrading.** When cutting the subgrade for sidewalks, the material shall be excavated to a depth 2 inches below the underside of the concrete and brought to grade

with sand. When filling is required, the subgrade shall be brought to proper grade in uniform layers not to exceed 6 inches in thickness and shall be thoroughly compacted mechanically.

(b) **Width and Thickness of Sidewalks and Driveways.** All sidewalks, unless specifically approved by the Planning and Zoning Commission, shall have a standard width of four (4) feet with a traverse slope of 1/4 inch per foot toward the curb and gutter. The minimum thickness of any part of a sidewalk shall be 4 1/2 inches and, in places where driveways cross, a minimum thickness of six (6) inches. Portions of any sidewalk where driveways or laterals cross shall be reinforced as approved by the Village Engineer.

(c) **Concrete.** All sidewalks shall be one course concrete construction, 6 bag mix, with 4 inch slump. The surface shall be struck, trowled and brushed in a uniform and even manner. Contraction joints shall be located transversely every 5 feet at a depth of one inch. Expansion joints shall be one inch thick and shall be located transversely at each property line, and in addition, one expansion joint shall be located at least every 20 feet.

(4) DRIVEWAYS.

(a) **Width.** No driveway shall exceed 20 feet in width at the outer or street edge of the sidewalk, nor 26 feet in width at the curb.

(b) **Interference With Intersections Prohibited.** At street intersections, a driveway shall not provide direct ingress or egress to or from the street intersection area and shall not occupy areas of the roadway deemed necessary by the Building Inspector for effective traffic control or for highway signs and signals.

(c) **Interference with Street Prohibited.** No driveway apron shall extend out into the street farther than the face of the curb.

[Sub. (4)(d) Repl. 95-23, Eff. 6-9-95]

(d) **Number of Approaches Limited.** No more than one driveway entrance approach shall be constructed for any lot or premises.

[Am. 95-7, Eff. 2-24-95]

(e) **Workmanship and Materials.** All driveway entrances and approaches which are constructed across sidewalks shall be paved in accordance with the requirements for sidewalk construction in sec. 7.09(3) of this chapter. Portions of any driveway where laterals are under the driveway shall be reinforced as approved by the Village Engineer. A curb cut for a driveway entrance may be made only by removing and reconstructing the entire curb and gutter section or by sawcutting the existing curb using a "profile curb cut" with the curb head removed by using a machine type concrete saw specifically designed for this type of work. Driveway surfaces shall connect with the street pavement and sidewalk in a neat, workmanlike manner.

[Am. 97-24, Eff. 7-7-97].

7.10 PERMITS.

(1) **PERMIT REQUIRED.** No person shall construct, repair, or replace any street, curb and gutter, sidewalk, alley or driveway without first obtaining a permit from the Building Inspector unless the work involved is part of utility installation or repair work done by a utility or a contractor for a utility. The applicant for a permit shall file the application with the Building Inspector and furnish a drawing designating his/her property lines, the location and

width of the proposed improvements and the location of any driveways and street intersections within 100 feet of the property.

(2) FEE. The fee for such permit is \$25 and shall accompany the application.

7.11 MOVING BUILDINGS.

(1) **BOND REQUIRED.** Before any building is moved within, out of, or into the Village, a permit must first be obtained from the Building Inspector. Before a permit to move any building is granted by the Building Inspector, the party applying therefor shall give a bond in the sum of \$5,000 with good and sufficient sureties to be approved by the Village Attorney ensuring, among other things, that said party will satisfy any judgments, costs or expenses which may in any way accrue against the Village and will save the Village harmless against all liabilities, judgments, costs and expenses in consequence of granting of such permit.

(2) FEE. The fee for such permit shall be \$25 and shall accompany the application.

(3) **CONTENTS OF PERMIT: REGULATION.** Every permit to move a building shall state all conditions to be complied with, designate the route to be taken, and limit of time for moving. The moving of a building shall be completed in a timely manner with the least possible obstructions to thoroughfares. Flashing amber lights shall be kept in conspicuous places at each end of the building during the night.

(4) **INSPECTION AND REPAIR OF STREETS AND HIGHWAYS.** Every person receiving a permit to move a building shall, within one day after the building reaches its destination, report that fact to the Building Inspector. The Building Inspector shall thereupon inspect the streets and highways within the Village over which said building has been moved and ascertain their condition. If the removal of said building has caused any damage to the streets or highways, the house mover shall forthwith place them in as good repair as they were before the permit was granted. Upon failure of the house mover to do so within 10 days thereafter to the satisfaction of the Building Inspector, the Village shall repair the damage done to such streets and highways and hold the mover and the sureties of the bond given by the house mover responsible for the payment of the same.

7.12 STREET RIGHTS OF WAY. Any tree, shrub, hedge, fence, or other obstruction planted or constructed within the right of way of any Village street shall be done at the property owner's risk. In the event any street is widened or sidewalk constructed, any such planting or obstruction shall be removed at the property owner's expense. The Village shall have no liability for damage to, or the loss or destruction of, any such planting or obstruction.

7.13 PENALTY. The penalty for violation of any provision of this chapter shall be as provided in sec. 20.04 of this Code. A separate offense shall be deemed committed on each day on which a violation of this chapter occurs or continues.

CHAPTER 8 MUNICIPAL UTILITIES

Subchapter I - DEFOREST WATER UTILITY

8.01	Management	8-2
8.02	Rules and Regulations	8-2
8.03	Outside Water Service	8-2
8.04	Private Well Abandonment.....	8-2
8.05	Impact Fees for Water Utilities.....	8-4
	[Cr. 05-12, Eff. 4-21-05]	
8.06	Temporary Use of Village Water Meters.....	8-7
	[Cr. 18-04, Eff. 2-7-18]	

Subchapter II - DEFOREST SANITARY SEWER UTILITY

8.50	Intent	8-9
8.51	Definitions.....	8-9
8.52	Sewer Main Extensions	8-11
8.53	Management, Operation & Control	8-12
8.54	User Rules & Regulations	8-13
8.55	Control of Industrial & Septage Wastes.....	8-16
8.56	Compliance with MMSD Ordinance	8-16
8.60	User Charge System	8-16
8.62	Payment of Sewer & Service Charges	8-19
8.63	Disposition of Revenue	8-20
8.64	Audit	8-20
8.70	Violations & Penalties.....	8-21

Subchapter III – DEFOREST STORMWATER UTILITY

[Cr. 04-31, Eff. 11-18-04]

8.80	Stormwater Utility Established	8-22
8.81	Authority	8-22
8.82	Management and Operations	8-22
8.83	Powers and Duties	8-22
8.84	Definitions.....	8-23
8.85	Rates and Charges.....	8-24
8.86	Credits	8-25
8.87	Customer Classifications	8-26
8.88	Billing and Penalties	8-27
8.89	Appeals	8-28
8.90	Special Assessment and Charges	8-28
8.91	Severability	8-29

SUBCHAPTER I: DEFOREST WATER UTILITY

8.01 MANAGEMENT. The DeForest Water Utility shall be managed by the DeForest Village Board.

8.02 RULES AND REGULATIONS.

(1) GENERAL. The rules and regulations governing the operation of the DeForest Water Utility shall be those on file with and approved by the Wisconsin Public Service Commission. A violation of any such rules and regulations shall be a violation of this chapter.

(2) OPERATING RULES.

(a) All persons now receiving water service from the Utility or who may hereafter make application therefor shall be considered as having agreed to be bound by all rules and regulations as filed with the Public Service Commission and as provided in these ordinances.

(b) The applicable provisions of Wisconsin Administrative Code Ch. PSC 185 relating to water service are hereby adopted by reference and made part of these rules as if set forth in full. A violation of any provision of this section be punishable as provided in § 20.04 of this Code.

8.03 OUTSIDE WATER SERVICES. No water service shall be extended outside the Village limits except by written agreement between the Village and one or more contiguous municipalities.

[Repl. & Recr. 94-23, Eff. 6-23-94]

8.04 PRIVATE WELL ABANDONMENT.

(1) PURPOSE. The purpose of this section is prevent contamination of groundwater and to protect public health, safety and welfare by assuring that unused, unsafe or noncomplying wells or wells which may serve as conduits for contamination or wells which may be illegally cross-connected to the municipal water system, are properly abandoned.

(2) APPLICABILITY. This section applies to all wells located on premises served by the Village of DeForest municipal water system.

(3) DEFINITIONS. The following terms as used in this section shall be defined as follows:

(a) "Municipal water system" means a system for the provision to the public of piped water for human consumption when such system has at least 15 service connections or regularly serves at least 25 year-round residents owned or operated by a city, village, county, town sanitary district, utility district or a federal, state, county or municipal owned institution for congregate care or correction or a privately owned water utility serving any of the above.

(b) "Noncomplying" means a well or pump installation which does not comply with the provisions of Ch. NR 812, *Wis. Admin. Code*, in effect at the time the well was

constructed, a contamination source was installed, the pump was installed or work was done on either the well or pump installation.

(c) "Pump installation" means the pump and related equipment, used for withdrawing water from a well including the discharge piping, the underground connections, pitless adapters, pressure tanks, pits, sampling faucets and well seals or caps.

(d) "Unsafe" means a well or pump installation which produces water which is bacteriologically contaminated or contaminated with substances in exceedance of the standards of Chs. NR 809 or 140, *Wis. Admin. Code*, or for which a Health Advisory has been issued by the Department of Natural Resources.

(e) "Unused" means a well or pump installation which is not in use or does not have a functional pumping system.

(f) "Well" means an excavation or opening into the ground made by digging, boring, drilling, driving, or other methods for the purpose of obtaining groundwater for consumption or other use.

(g) "Well Abandonment" means the filling and sealing of a well according to the provisions of Ch. NR 812, *Wis. Admin. Code*.

(4) ABANDONMENT REQUIRED. All wells located on premises served by the municipal water system shall be abandoned in accordance with the terms of this section and Ch. NR 812, *Wis. Admin. Code*, by October 31, 1993 or no later than one (1) year from the date of connection to the municipal water system, whichever occurs last, unless a well operation permit has been obtained by the well owner from the Village Board or from the Village Administrator.

(5) WELL OPERATION PERMIT. The Village Board or the Village Administrator may grant a permit to a private well owner to operate a well for a period not to exceed five (5) years providing the conditions of this subsection are met. An owner may request renewal of a well operation permit by submitting information verifying that the conditions of this subsection are met. The Village Board, or its agent, may conduct inspections or have water quality tests conducted at the applicant's expense to obtain or verify information necessary for consideration of a permit application or renewal. Permit applications and renewals shall be made on forms provided by the Village Clerk. The following conditions must be met for issuance or renewal of a well operation permit:

(a) The well and pump installation meet or are upgraded to meet the requirements of Ch. NR 812, *Wis. Admin. Code*,

(b) The well construction and pump installation have a history of producing bacteriologically safe water as evidenced by at least two (2) samplings taken a minimum of two (2) weeks apart. No exception to this condition may be made for unsafe wells, unless the Department of Natural Resources approves, in writing, the continued use of the well,

(c) There are no cross-connections between the well and pump installation and the municipal water system, and

(d) The proposed use of the well and pump installation can be justified as being necessary in addition to water provided by the municipal water system.

(6) ABANDONMENT PROCEDURES.

(a) All wells abandoned under the jurisdiction of this section shall be abandoned according to the procedures and methods of Ch. NR 812, *Wis. Admin. Code*. All debris, pump, piping, unsealed liners and any other obstructions which may interfere with sealing operations shall be removed prior to abandonment.

(b) The owner of the well, or the owner's agent, shall notify the Village Administrator at least 48 hours prior to commencement of any well abandonment activities. The abandonment of the well shall be observed by the Water and Sewer Superintendent.

(c) An abandonment report form, supplied by the Department of Natural Resources, shall be submitted by the well owner to the Village Administrator and the Department of Natural Resources within ten (10) days of the completion of the well abandonment.

(7) PENALTIES. Any well owner violating any provision of this section shall, upon conviction, be punished by forfeiture of not less than \$25.00 nor more than \$200.00 and the cost of prosecution. Each day of violation is a separate offense. If any person fails to comply with this section for more than ten (10) days after receiving written notice of the violation, the Village may cause the well abandonment to be performed and the expense to be assessed as a special tax against the property.

(8) WELL OPERATION PERMIT FEES. An applicant for an initial well operation permit for any well shall pay at the time of application a permit fee of \$350.00. An applicant for renewal of a permit in effect at the time of application shall pay a fee of \$250.00. Any fees charged for extracting, analyzing or reporting the analysis of water samples shall be separately paid by the applicant. A well operation permit application shall not be considered complete until the permit application fee is paid.

[Sec. 8.04 Cr. 92-18, Eff. 2-4-93]

8.05 IMPACT FEES FOR WATER UTILITY FACILITIES.

(1) PURPOSE. The purpose of this section is to establish the mechanism for the imposition of impact fees upon new development to finance the capital costs of acquiring, establishing, upgrading, expanding, and constructing public water utility facilities which are necessary to accommodate land development. This section is intended to assure that new development bears an appropriate share of the cost of capital expenditures necessary to provide public facilities within the Village of DeForest and its service areas as they are required to serve the needs arising out of land development.

(2) DEFINITIONS. As used in this section:

(a) "Capital costs" means the capital costs to construct, expand or improve Public Facilities as defined in par. (f), including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless such costs relate directly to the public improvement for which the impact fees imposed actually exceed 10% of the capital costs.

(b) "Developer" means any person or entity who applies for a building permit for purposes of Development as defined in par. (c).

(c) "Development" means any man made change to improved or unimproved real property, any change in the use of any structure or land, or any other activity if such change or other activity requires or involves a new connection to the Village Water Utility system or the replacement of an existing water meter with a higher capacity meter.

(d) "Impact Fee" means the fee imposed pursuant to this section.

(e) "Needs Assessment" means the report of the evaluation of the Village's anticipated needs for new and/or expanded public water utility facilities caused by new Development. The report, entitled "Village of DeForest Report on Impact Fees," prepared by Virchow Krause & Co. LLP dated February 15, 2005, is on file in the office of the Village Clerk.

(f) "Public facilities" means facilities for the supply and storage of water as identified in the Needs Assessment. Public Facilities shall not include any part of the water distribution system other than the storage and supply facilities for which the Impact Fee under this section is calculated as set forth in the Needs Assessment.

(g) "Village" means the Village of DeForest.

(3) IMPOSITION OF FEES.

(a) Impact Fee Imposed. Impact Fees under this section are hereby imposed on all residential and nonresidential Development.

(b) Basis for Impact Fee Calculation. The Impact Fees imposed by this section are established based on the impact fee report titled "Village of DeForest, DeForest Wisconsin, Report on Water Impact Fees" prepared by Virchow Kraus & Company dated February 2, 2005. The amount of the Impact Fees established hereby shall be reviewed by the Village Board periodically provided, however, that the fees shall not be increased unless a new needs assessment is prepared which establishes a basis for the increased fees.

(c) Amount of Impact Fees. Impact Fees imposed under this section shall be determined based on the size of each water meter to be installed to serve the Development. In the event an existing water meter is to be replaced with a higher capacity meter, the Impact Fee shall be limited to the amount by which the fee that would be imposed on a new connection with the higher capacity meter exceeds the charge that would apply to the replaced meter. Impact Fees shall be determined as follows:

Meter Size	Impact Fee
5/8" or ¾"	\$700
1"	\$1,750
1¼"	\$2,625
1½"	\$3,500
2"	\$5,600
3"	\$10,500
4"	\$17,500
6"	\$35,000

(d) Fee Credits. The fees imposed by this section shall be reduced to compensate the Developer for other capital costs imposed by the Village in connection with the Development to provide or pay for Public Facilities, including special assessments, special charges, land dedications or fees in lieu of land dedications. Such credits shall be given only for such costs, fees or dedications required by the Village and which relate to the new Public Facilities for which the fees under this section are imposed.

(4) PAYMENT OF IMPACT FEES. Except as provided in this subsection, no building permit shall be issued for any development unless the impact fee imposed by this section is paid. If the total amount of impact fees due for a development will be more than \$75,000, the developer may defer payment of the impact fees until the earlier of 4 years from the date of the issuance of the building permit, or 6 months before the Village incurs the costs to construct, expand, or improve the public facilities that are the subject of the impact fee. If the developer elects to defer payment under this paragraph, the developer shall maintain in force a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the Village. A developer may not defer payment of impact fees under this subsection for a project that has been previously approved.

[Am. 22-02, Eff. 1-19-22]

(5) IMPACT FEE REVENUE ADMINISTRATION.

(a) Accounting. Revenues from Impact Fees collected pursuant to this section shall be placed in one or more segregated, interest-bearing accounts and shall be accounted for separately from other Village general and utility funds. Impact Fee revenues and interest earned thereon may be expended only for the capital costs for which the Impact Fees were imposed.

(b) Refunds. Impact Fee revenues imposed and collected but not used within eight (8) years after collection to pay the capital costs for which they were imposed shall be refunded on a prorated proportional basis, as determined by the Village Board, to the person or persons who paid the unused impact fee.

[Am. 22-02, Eff. 1-19-22]

(6) USE OF IMPACT FEES. Impact Fees collected under this section shall be used solely for the purpose of paying the proportionate costs of providing public facilities that may become necessary due to Development. These costs may include the costs of debt service on bonds or similar debt instruments when the debt has been incurred for the purpose of proceeding with designated public facilities projects prior to the collection of all anticipated Impact Fees for that project, to reimburse the Village for advances of other funds or reserves, and such other purposes consistent with §66.0617, *Wis. Stats.* as approved by the Village Board.

(7) APPEALS. The payment of an Impact Fee imposed under this section may be contested as to the amount, collection or use of the Impact Fee to the Village Board, provided that the applicant files a written notice of appeal with the Village Clerk within thirty (30) days of the decision being appealed. Such notice of appeal shall be entitled "Notice of Appeal of Impact Fee" and shall state the applicant's name, address, telephone number, address (if available) and legal description of the land upon which the Development for which the Impact Fee is imposed is located, and a statement of the nature of and reasons for the appeal. The Village Clerk shall schedule the appeal for consideration by the Village Board at a regular meeting as soon as reasonably practicable under the circumstances and shall notify the applicant of the time, date and place of such meeting in writing by regular mail, deposited in the mail no later than ten (10) days before the date of such meeting. Upon review of such appeal, the Village Board may adjust the amount, collection or use of the Impact Fee upon just and reasonable cause shown.

(8) SEVERABILITY. If any section, phrase, sentence, or portion of this section is for any reason determined invalid or unenforceable by any court of competent jurisdiction, such portions shall be deemed separate, distinct, and independent provisions, and such determination shall not affect the validity of the remaining portions hereof. If this section, or any provision herein, is determined to be invalid or unenforceable as to any individual property or set of circumstances, such determination shall not affect the applicability thereof to any other property or circumstances.

8.06 TEMPORARY USE OF VILLAGE WATER METERS

(1) PURPOSE. The Public Service Commission requires the use of a water meter by customers with service connections greater than 1-inch for whom the Utility cannot immediately install a water meter but for whom the Utility is supplying service temporarily, such as for construction. This section establishes a mechanism by which customers who require use of a Village water meter on a temporary basis may borrow a water meter from the Village, and establishes a deposit schedule for the use of Village water meters.

(2) APPLICATION. A customer may apply for temporary use of a Village water meter by completing the Temporary Water Meter Deposit form on file with the Utility, attaching a written request including a clear statement of the location at which the temporary

water meter will be used, and the length of time for which the meter is requested, and providing a deposit based on the meter size.

(3) DEPOSIT. The required deposit is refundable if the temporary water meter is returned in satisfactory condition, as determined by the Utility, and upon full payment of all billing charges for water usage. The deposit amount is determined according to the following schedule:

Meter Size	Deposit Fee
1.5"	\$1,150.00
2"	\$1,350.00
3"	\$1,650.00
4"	\$2,850.00

(4) USE. The customer shall only install the temporary water meter at the location for which the Utility has provided written approval. Upon approval, the customer shall receive a temporary water meter and a check valve that shall be used with the temporary water meter.

- (a) The customer shall report readings from the temporary water meter to the Utility Office between the 20th and 25th day of each month. Failure to make a timely report of the temporary water meter readings shall result in a \$10.00 penalty each instance that the meter reading is not reported.
- (b) The customer shall pay monthly for water usage. The utility will bill each customer monthly for water usage, including a minimum bill charge when applicable; but failure to receive a billing does not release the customer from payment obligation. Late fees will be applied to outstanding charges not paid by due date. In the event that a meter reading cannot be obtained or if the meter is found to be defective, the amount of water used and billed will be estimated by the Utility by using meter readings and water usage from a period of similar service or if none exists then the Utility will estimate water usage using the best information available.
- (c) The customer shall submit the temporary water meter for inspection by the Utility once every three months.
- (d) The customer shall not keep the temporary water meter and check valve for longer than six months, and shall return the temporary water meter and all other equipment issued by the Utility, no later than six months from the date of its issue.

(5) LIABILITY. From the date that the temporary water meter is issued until the temporary water meter and all other equipment issued by the Utility have been returned to the Utility, the customer shall be responsible for the temporary water meter and any other equipment supplied by the Utility. The customer shall be liable to the Village for any damage to the meter and all other equipment issued by the Utility.

(6) PENALTIES.

- (a) Damage, repairs and/or equipment replacement will result in loss of all or part of the meter deposit fee and/or additional charges, as determined by the Utility.
- (b) If the customer does not submit the temporary water meter for inspection at least once every three months, or keeps the temporary water meter for longer than six months, the Utility may confiscate the temporary water meter without notice, and the deposit shall not be returned to the customer.
- (c) If the customer is negligent in the use of the temporary water meter, fails to properly use the temporary water meter, or tampers with the temporary water meter, the Utility may confiscate the temporary water meter without notice, and the deposit shall not be returned to the customer.
- (d) If the Utility revokes uses of the temporary water meter for any reason, the deposit will not be returned to the customer.
- (e) No person shall tamper with the temporary water meter. Any person found to be responsible for tampering with the temporary water meter shall, in addition to the applicable forfeiture, pay all damages caused by such tampering.

SUBCHAPTER II: DEFOREST SANITARY SEWER UTILITY

8.50 INTENT.

(1) This subchapter regulates the extension and use of public and private sewers and drains and the discharge of waters and wastes into the public sewerage system within the Village.

[Am. 13-03, Eff. 3-1-13]

(2) This subchapter provides for levying and collecting wastewater collection and treatment service charges, sets uniform requirements for discharge into the wastewater collection and treatment systems and enables the Village to comply with the administrative provisions and other discharge criteria which are required or authorized by State or Federal law and the ordinances of MMSD.

[Am. 13-03, Eff. 3-1-13]

(3) This subchapter provides a means for determining wastewater volumes, constituents, and characteristics, the setting of charges and fees, and the issuing of permits to certain users.

8.51 DEFINITIONS. As used in this subchapter:

(1) "CARPC" shall mean the Capital Area Regional Planning Commission, or any successor agency designated as the areawide water quality planning agency pursuant to Wis. Admin. Code §NR121.06(2), for the geographical area that includes the Village.

(2) "CBOD" shall mean carbonaceous biochemical oxygen demand or the quantity of oxygen used in the biochemical degradation of organic material in five (5) days at 20 degrees C when the oxidation of reduced forms of nitrogen is prevented by the addition of an inhibitor.

(3) "GARBAGE" shall mean the residue from the preparation, cooking, and dispensing of food, and from the handling, storage, and sale of food products and produce.

(4) "HIGH STRENGTH WASTEWATER" shall mean wastewater having organic concentrations of CBOD greater than 200 milligrams per liter (mg/l) and/or suspended solids greater than 250 milligrams per liter (mg/l) and/or TKN greater than 40 milligrams per liter (mg/l) and/or total phosphorus (TP) greater than 10 milligrams per liter (mg/l).

(5) "LATERAL" shall mean the extension from the public sewer to the inner face of the building wall.

(6) "MAY" is permissible.

(7) "MMSD" shall mean the Madison Metropolitan Sewerage District.

(8) "MMSD ORDINANCE" shall mean the Sewer Use Ordinance of MMSD, including any amendments thereto.

(9) "MMSD CONNECTION CHARGES" mean Interceptor Connection Charges, Treatment Plant Connection Charges and any other charges imposed on the Village by MMSD as a result of the extension of sanitary sewer service to new areas or redevelopments which result in changes in use of parcels.

(10) "NATURAL OUTLET" shall mean any outlet, including those from storm sewers, into a water course, pond, ditch, lake or other body of surface water or groundwater.

(11) "NORMAL DOMESTIC STRENGTH WASTEWATER" shall mean wastewater with concentrations of CBOD, suspended solids, TKN, and total phosphorus (TP) no greater than 200, 250, 40, and 10 milligrams per liter (mg/l) respectively.

(12) "OPERATION AND MAINTENANCE COSTS" shall include all costs associated with the operation and maintenance of the sewage system.

(13) "PERSON" shall mean any and all person, including any individual, firm, company, municipal or private corporation, association, society, institution, enterprise, government agency, or other entity.

(14) "REPLACEMENT COSTS" shall include all costs necessary to replace equipment as required to maintain capacity and performance during the design life of the facility. A separate, segregated, distinct replacement fund shall be established and used for only replacement of equipment.

(15) "SEWAGE" shall mean a combination of liquid and water-carried wastes discharged from residences, commercial buildings, industrial plants, institutions, or other structures.

(16) "SANITARY SEWER" shall mean a sewer that carries sewage.

(17) "SEPTAGE" shall mean the wastewater or contents of septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies or portable restrooms.

(18) "SEWER SERVICE CHARGE" shall mean the service charge levied on users of the wastewater collection and treatment facilities for payment of use-related capital expenses as well as the operation and maintenance costs, including replacement costs, of said facilities.

(19) "SEWER SYSTEM" means the public sanitary sewers within the Village . The facilities which convey wastewater from individual structures on private property to the public sanitary sewer, or their equivalent, are specifically excluded from the definition of "sewer system," except that pumping units and pressurized lines for individual structures or groups of structures shall be included as part of a sewer system when such units are owned and maintained by the Village and/or MMSD.

(20) "SHALL" is mandatory.

(21) "STANDARD METHODS" shall mean the examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage, and Industrial Water" published jointly by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation, in compliance with 40 CFR 136, "Guidelines Establishing Test Procedures for Analysis of Pollutants."

(22) "SUSPENDED SOLIDS" shall mean solids that either float on the surface of, or are in suspension in, water, wastewater, septage, or other liquids, and that are removable by laboratory filtering as prescribed in Standard Methods.

(23) "TKN" shall mean total Kjeldahl nitrogen or the quantity of organic nitrogen and ammonia as determined in accordance with Standard Methods.

(24) "TP" shall mean the quantity of total phosphorus as determined in accordance with the Standard Methods.

(25) "URBAN SERVICE AREA" shall mean a sewer service area designated in the applicable areawide water quality plan adopted pursuant to §283.83, Wis. Stats. and Wis. Admin. Code §NR121.

(26) "WASTEWATER FACILITIES" shall mean the structures, equipment and processes required to collect, carry away, store, and treat domestic and industrial waste and septage and dispose of the effluent and sludge.

[Am. 13-03, Eff. 3-1-13]

8.52 SEWER MAIN EXTENSIONS.

(1) REQUIRED APPROVALS.

(a) Urban Service Area. Sanitary sewer service shall be extended only within the boundaries of an Urban Service Area. A property owner who seeks to have the Urban Service Area boundaries amended to include his or her property shall make the request in writing to the Planning and Zoning Administrator and shall provide all information requested by the Village for inclusion in the amendment application. Any application, processing or other fees charged by the Capital Area Regional Planning Commission or other reviewing agency shall be paid by the property owner. Any fees payable at the time of submission of

an application by the Village shall be paid in advance by the property owner, and any fees payable after submission of the application shall be due upon invoicing by the Village.

(b) MMSD Annexation. Sanitary sewer service shall not be provided to any parcel until it has been annexed to MMSD. A property owner who seeks to have the Village petition for annexation of his or her property to the District shall make such request in writing to the Planning and Zoning Administrator. All fees charged by MMSD for the filing or processing of the petition shall be paid by the property owner to the Village prior to filing of the petition.

(c) MMSD Connection Approval. All sanitary sewer main extensions shall be subject to approval by MMSD as provided in the MMSD Ordinance. If the Village extends its sewer mains at the request of a property owner, any application or plan review charges made by MMSD shall be reimbursed to the Village by the person making the request for the extension within 30 days of invoicing by the Village.

(2) MMSD CONNECTION CHARGES. In any case where the extension of the Village's sanitary sewer system to serve new parcels, or any other event initiated at the request of a property owner, results in the imposition of MMSD Connection Charges against the Village, the owners of the parcels within the new service area upon which the charges are assessed shall reimburse the Village for the entire cost thereof. The payment to the Village shall be due not later than 30 days after the date of an invoice for such charges from the Village, and in all cases shall be paid before any building permit shall be issued allowing a sanitary sewer connection within the assessed area.

(3) OUTSIDE SEWER SERVICES. No sanitary sewer service shall be extended outside the Village limits except by written agreement between the Village and one or more contiguous municipalities.

(4) COST RECOVERY. Any person connecting a sewer main extension to a sewer main constructed at the expense of a subdivision developer to serve property located outside that developer's subdivision, shall reimburse the developer for a portion of the cost of the existing main determined in accordance with Wis. Admin. Code §PSC187.05. This subsection applies only to connections made within three (3) years after completion of the developer-funded extension. Any payment due a developer under this subsection shall be paid within sixty (60) days from the date the person connects to the extension.

[Cr. 13-03, Eff. 3-1-13]

8.53 MANAGEMENT, OPERATION AND CONTROL.

(1) GENERAL. Management, operation, and control of the sewer system for the Village shall be vested in the Village Board; all records, minutes, and written proceedings thereof shall be kept by the Village Clerk.

(2) CONSTRUCTION. (a) The Village Board shall have the power to construct sewer lines and related facilities for public use, shall have the power to lay sewer pipes in and through easements, alleys, streets, and public grounds of the Village, and shall have the power to do such work as it may deem necessary or convenient in the management of the sewer system.

(b) The Village Board, its officers, and employees shall have the power to enter upon any land for the purpose of making examinations as may be necessary in the performance of their duties under this chapter without liability therefor.

(c) The Village Board shall have the power to purchase or otherwise acquire for the Village all real and personal property which it may deem necessary or convenient for the construction of the sewer system, or for the maintenance, repair, or replacement thereof, or for additions thereto.

(3) MAINTENANCE BY PROPERTY OWNER. (a) Each property owner shall maintain the sewer service from the street main to and within the building served, including all controls between the same, at his or her own expense, except when damaged as a result of negligence on the part of the Village. The owner of every facility connected to the sewer system shall keep his or her service pipes in good repair and protected from frost at the expense of the owner and shall prevent any unnecessary overburdening of the sewer system.

(b) When any sewer service is to be re-laid and there are two or more buildings on such service, each building shall be disconnected from such service and a new sewer service shall be installed for each building.

(4) TITLE TO REAL AND PERSONAL PROPERTY. All property, real, personal, and mixed, and any interest therein, acquired for the construction or maintenance of the Village sewer system, all plans, specifications, diagrams, papers, books, and records connected therewith, and all buildings, machinery, and fixtures pertaining thereto, shall be the property of the Village.

8.54 USER RULES AND REGULATIONS.

(1) GENERAL.

(a) The rules, regulations, and sewer rates of the Village shall be considered a contract with every person whose property is connected to or uses the Village sewer system and every such person, by connecting with the sewer system, shall be considered as having agreed to be bound thereby.

(b) The sewer service to any property may be disconnected or discontinued for violation of any rule contained herein or of any order of the Village Board regulating the use of the sewer system and shall not be re-established except by order of the Village Board upon payment of all arrears, the expenses and established charges of disconnection and reconnection, and upon such other terms and the Village Board may determine.

(c) The Village may amend these rules, regulations, and applicable sewer use rates as it deems advisable.

(2) USE OF PUBLIC SEWERS REQUIRED.

(a) Within the Village, the owner of each parcel of land adjacent to a sewer main on which there exists a building usable for human habitation or in a block through which such a system is extended, shall connect to such system as required under §12.01 of this Code.

(b) The owner of all houses, buildings or properties used for human occupancy, employment, recreation or other purposes situated within the Village and which property either abuts on a street, alley, or right-of-way in which a public sewer is located, or has a public sewer main located within its boundaries, shall at his or her expense, install suitable toilet facilities therein and connect such facilities directly with the public sewer in accordance with this section.

[Am. 13-03, Eff. 3-1-13]

(c) The use of septic tanks, holding tank, or private sewage disposal system within the Village shall be prohibited except in areas where public sewer is not available.

(d) Any septic tank, cesspool or similar private wastewater disposal facility that is abandoned shall be completely removed or filled with suitable material.

(e) It shall be unlawful for any person to place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the Village or in any area under the jurisdiction of the Village any human excrement, septage, garbage, or other objectionable wastes.

(f) It shall be unlawful to discharge to any natural outlet within the Village or in any area under the jurisdiction of the Village any wastewater or other polluted waters, except where suitable treatment has been provided.

(3) PLUMBERS. No person shall perform any plumbing or pipefitting work in connection with the sewer system without first receiving an appropriate license from the State of Wisconsin and obtaining permission from the Village. All service connections to the sewer main shall comply with the State of Wisconsin Plumbing Code. After sewer connections have been made to any building or upon any premises, no person shall make any alterations, extensions, or attachments, unless the party ordering such work exhibits the proper permit for the same from the Village.

(4) APPLICATION FOR SEWER SERVICE.

(a) Every person desiring to connect property to the sewer system shall file an application in writing to the Village on forms provided by the Village for that purpose. Applications shall be available at the office of the Village. The application shall state fully and truthfully all wastes which will be discharged. If the applicant is not the owner of the premises, the written consent of the owner shall accompany the application.

(b) If it appears that the service applied for will not provide adequate service for the contemplated use, the Building Inspector may reject the application. If the Building Inspector approves the application, he or she shall issue a permit for service as shown on the application.

(c) If it appears that the service applied for will not meet the established standards and criteria for discharge into the public sewer system, the Village may require pretreatment, require control of the quantities and rates of discharge, and/or recover the increased costs of handling and treating such wastes.

(5) EXPENSE OF CONNECTION. Building sewers or laterals connected to a public sewer shall be installed at the sole expense of the applicant for sewer service.

(6) BACKFLOW PREVENTOR. All floor drains shall have a backflow prevention valve installed at the owner's expense.

(7) MULTIPLE CONNECTION PROHIBITED. No user shall allow any other person or other service to connect to the sewer system through his or her lateral and no person shall allow the connection of his or her premises to the sewer system through the lateral of another.

(8) VACATING OF PREMISES OR DISCONTINUANCE OF SERVICE. Whenever premises served by the sewer system are to be vacated or whenever any person desires to discontinue service from the system the Village shall be notified in writing.

(9) USER TO ALLOW INSPECTION. Every person shall allow the Village or its duly authorized agents to enter his or her premises or building to examine the pipes and fixtures and the manner in which the drains and sewer connections operate. Such persons shall at all times and without concealment answer all questions put to them relative to their use of the sewer system.

(10) UTILITY RESPONSIBILITY.

(a) No claim shall be made against the Village, its officers, employees, or representatives by reason of the breaking, clogging, stoppage, or freezing of any service pipes; nor from any damage arising from the repair of mains, the making of connections or extensions; nor from any other work that may be deemed necessary by the Village.

(b) The Village may discontinue or disconnect service at any time for repairs or other necessary purpose. Whenever it shall become necessary to discontinue or disconnect service, the Director of Public Services shall, if practical, give notice to each customer within the affected area of the time when such service will be discontinued or disconnected and the approximate time when such service shall be restored.

[Cr. 13-03, Eff. 3-1-13; Am. 15-33, Eff. 07-07-15]

(11) EXCAVATIONS.

(a) Whenever any excavations are made in streets, highways or other public areas for laying of service pipe or making repairs, all material removed shall be deposited in a manner that will result in the least inconvenience to the public.

(b) No person shall leave any such excavation made in any street or highway open at any time without adequate barricades and warning devices. During the night, warning lights shall be maintained at such excavations.

(c) In refilling the opening after the service pipes are laid or repairs are complete, the fill material shall be placed in layers of not more than nine (9) inches in depth and each layer thoroughly compacted to prevent settling. All such work, and the replacing of sidewalks and streets, shall be completed such that the final construction is of at least the quality existing before the land was disturbed, and shall be subject to the approval of the Director of Public Services.

[Cr. 13-03, Eff. 3-1-13; Am. 15-33, Eff. 07-07-15]

(d) No opening of the street for tapping the pipes shall be permitted when the ground is frozen except by order of the Village Board.

(12) TAPPING OF THE MAINS. Connections to the sewer system other than building sewer connections shall be made in accordance with the MMSD Ordinance.

(13) INSTALLATION OF BUILDING LATERALS.

(a) All building laterals on private property shall be installed in accordance with *Wis. Admin. Code*, Ch. SPS 382.
[Am. 13-03, Eff. 3-1-13]

(b) All laterals shall be inspected upon the completion of placement of the pipe and before backfilling and shall be tested before or after backfilling.

8.55 CONTROL OF INDUSTRIAL AND SEPTAGE WASTES.

(1) CONTROL MANHOLES.

(a) Each person discharging industrial wastes into a public sewer shall construct and maintain one or more control manholes or access points to facilitate observation, measurement, and sampling of wastes, including domestic sewage from such person's premises.

(b) Control manholes or access facilities shall be located and constructed in a manner acceptable to the Madison Metropolitan Sewerage District. If measuring devices are permanently installed, they shall be of a type approved by MMSD.

(c) Control manholes, access facilities, and related equipment shall be installed and maintained in a safe condition by and at the expense of the person discharging the industrial waste and shall be accessible and in proper operating condition at all times. Plans for installation of the control manholes or access facilities shall be approved by MMSD prior to the beginning of construction.

(2) WASTEWATER MEASUREMENT, SAMPLING, AND REPORTING. Wastewater flow measurements, sampling and reporting shall be conducted in accordance with the MMSD Ordinance.

8.56 COMPLIANCE WITH MMSD ORDINANCE. All use of the public sewer system shall comply with the MMSD Ordinance.

8.60 USER CHARGE SYSTEM.

(1) SERVICE CHARGE POLICY. It shall be the policy of the Village Board to obtain sufficient revenues to pay the cost of the operation and maintenance of the sewer system, including replacement costs, through a system of sewer service charges as defined in this section. The system shall assure that each user of the sewage system pays a proportionate share of the cost of such facilities, including any charges imposed by MMSD.

(2) CHARGES IMPOSED. A sewer service charge is hereby imposed on each lot, parcel of land, building, or premise served by the public sewer and wastewater facilities or otherwise discharging sewage, including industrial wastes, into the public sewage system. Such sewer service charge shall be payable as provided herein and an amount determinable as follows:

(a) CATEGORY A service charges shall be imposed on users whose water use is metered and whose sewer discharges are limited to normal domestic strength wastewater. The Category A sewer service charge shall be determined as follows:

$$\text{Service Charge} = \text{Customer Charge} + \text{Volume Charge}$$

$\text{Customer Charge} = \text{A basic service charge based on the size of the water meter}$

$\text{Volume Charge} = \text{A charge based on metered water usage in thousands of gallons multiplied by a volume rate}$

$\text{Volume Rate} = \text{The volume unit price expressed in dollars per 1,000 gallons}$

(b) CATEGORY B service charges shall be imposed on users whose water use is not metered and whose sewage discharges are limited to normal domestic strength wastewater. The Category B sewer service charge shall be determined as follows:

$$\text{Service Charge} = \text{Equivalent Residential Units multiplied by the Equivalent Residential Unit Rate}$$

No user shall be assigned less than one Equivalent Residential Unit. The number of Residential Unit Equivalents for non-residential users shall be as determined by the Village Board.

(c) CATEGORY C service charges shall be imposed on all users whose sewage discharges include high strength wastewater. The minimum Category C service charge shall be based on a concentration of 200 mg/l CBOD, 250 mg/l suspended solids, 40 mg/l TKN, and 10 mg/l TP. The form of the Category C service charge is as follows:

$$\text{Service Charge} = \text{Customer Charge} + \text{Volume Charge} + \text{High Strength Surcharge}$$

The Customer Charge and the Volume Charge are as defined under the Category A service charge.

$\text{High Strength Surcharge} = \text{the excessive CBOD, suspended solids, TKN, and TP multiplied by the respective CBOD, suspended solids, TKN, and TP rates. The excessive CBOD, suspended solids, TKN, and TP are the portions of each of these constituents that are in excess of normal domestic strength wastewater. The excessive amounts of CBOD, suspended solids, TKN, and TP are expressed in pounds and their respective rates are expressed in dollars per pound.}$

(d) Excess Sewerage Surcharge. In addition to the rates specified in pars. (a) - (c), any customer whose sewerage discharge volumes are separately monitored by the Village or MMSD, and whose measured volumes are determined to exceed the volume of water measured by the customer's water meter, shall pay a surcharge calculated as the sum of the following:

1. The applicable volume rate multiplied by the difference between the measured effluent volume and the metered water volume; plus

2. The difference between the customer's customer charge and the customer charge that would apply to a meter providing the volume of water equal to the customer's measured sewer discharges.

[Par. (d) Cr. 17-40, Eff. 12-20-17]

(e) Establishment of Rates. The various rates and charges to be applied to sewer service under this section shall be established by resolution of the Village Board and shall remain in effect until changed by subsequent resolution.

[Am. and Renumbered 17-40, Eff. 12-20-17]

(f) Purchased Treatment Cost Adjustment. The rates established pursuant to par. (d) shall be adjusted automatically to reflect any subsequent increase or decrease in the rates charged by Madison Metropolitan Sewerage District. The adjustment will be effective for service rendered on and after the effective date of the change in rates for service provided by MMSD. The Finance Director shall calculate the appropriate rate adjustment to accurately reflect changes in MMSD charges based on volume and/or load. The utility shall provide notice to its customers of such changes in rates resulting from application of this paragraph with the next billing following the rate adjustment.

[Cr. 08-10, Eff. 3-18-08; Renumbered 17-40, Eff. 12-20-17]

(g) General Inflationary Cost Adjustment. The rates established pursuant to par. (d) shall be adjusted effective for the first billing period of each year to reflect the increase or decrease in the consumer price index over the previous year. The adjustment shall apply to all utility operating costs other than MMSD charges. The Finance Director shall calculate the appropriate rate adjustment not later than 30 days prior to the billing date for such billing period. As used in this paragraph, "consumer price index" means the revised Consumer Price Index for All Urban Consumers – Midwest Region, as published by the Bureau of Labor Statistics of the United States Department of Labor (1982-1984=100) most recently reported prior to the effective change date.

[Cr. 08-10, Eff. 3-18-08; Renumbered 17-40, Eff. 12-20-17]

(h) Review of Rates. Notwithstanding any adjustments made pursuant to pars. (e) or (f), the rates for sewer service shall be reviewed by the Village Board not less than biennially. Rates shall be adjusted, as required, to reflect the actual number and size of users and projected costs of operation, maintenance and capital improvements. Users shall be notified annually of the applicable rates and the portion of service charges attributable to operation, maintenance and debt service.

[Am. and Renumbered 08-10, Eff. 3-18-08; Am. and Renumbered 17-40, Eff. 12-20-17]

(3) SEASONAL SEWER CHARGE CREDIT. In recognition of the fact that substantial amounts of metered water is used during summer months for irrigation, swimming pools and other uses which do not result in sanitary sewer discharges, any Category A customer who, as of April 30 of any year, will have received metered public water service at the same service location for at least the prior seven (7) consecutive months may apply for and receive a seasonal credit against the volume charge imposed under this section provided in this subsection.

(a) Application for Credit. A customer may qualify for the seasonal credit by filing an application with the DeForest Sewer Utility not later than April 30 of any year. The application shall be on a form approved by the Director of Public Services and be accompanied by an application fee of \$150.00. A separate application and fee payment is

required for each location receiving metered water service, and for each year for which a credit is requested.

(b) Calculation of Credit. The Sewer Utility will determine a Base Volume by calculating the average monthly water usage for the parcel listed on the application for the period beginning on October 1 of the year prior to the date of application through the following April 30. The Director of Public Services may revise the calculation of the Base Volume to exclude or adjust any months for which the Director has substantial evidence that the metered water usage was significantly increased or decreased for reasons other than normal variations in customer water use habits. The credit amount shall be determined by subtracting the sewer and MMSD volume charges on the Base Volume from the customer's sewer and MMSD volume charges based on water meter readings for each month from May through September (the "Credit Period") during which the Base Volume is less than the actual metered water usage for the property.

(c) Exceptions and Limitations.

1. Change of Use. The Director of Public Services may deny the credit provided by this section if he or she determines that the use of the customer's property has materially changed during the 7 months prior to the application deadline, or is likely to so change during the Credit Period, such that the Base Volume calculation under par. (b) would significantly underestimate the actual sewer usage by that customer during the Credit Period.
2. Drought Emergencies. The Director of Public Services may declare a drought emergency at any time the National Weather Service guidelines indicate an Extreme Drought or Exceptional Drought. The declaration shall be noticed on the Village website and shall discourage the unnecessary use of water for irrigation and other nonessential uses. The credit calculated under this subsection shall be reduced on a pro rata basis for each day of a month during which a declaration is in effect .

(d) Refund of Credit Amount. Credit calculations under this subsection shall be made and refunds issued to the customer in November of the applicable year.

[Sub.(3); Cr. Ord. 22-04, Eff. 1-19-22]

(4) REASSIGNMENT OF SEWER USERS. The Village will reassign sewer users into appropriate sewer service charge categories if wastewater sampling or other information indicates a change of categories is necessary.

8.62 PAYMENT OF SEWER AND SERVICE CHARGES.

(1) PAYMENT AND PENALTIES. The sewer service charge shall be billed monthly and shall be paid to the Village not later than twenty (20) days after the end of each billing period. A surcharge of 3% of the total service charge will be added to all bills not paid by the due date as provided herein.

[Am. 17-37; Eff 12-21-17]

(2) CHARGES ARE LIEN. All sewer service charges shall be a lien upon the property serviced pursuant to § 66.0821(4)(d), Wis. Stats., and shall be collected in the manner therein provided.

(3) COLLECTION OF UTILITY BILLS IN ARREARS.

(a) All sewer service charges unpaid and in arrears on October 1 of each year shall be collected in accordance with the procedure hereinafter provided pursuant to the authority granted in §§66.0809 and 66.0821, *Wis. Stats.*

(b) On or about October 15 of each year the Village shall mail a notice of sewer service charges unpaid to the occupant and to the owner of the premises receiving such utility service. In the event any such utility bill is not paid by November 1 thereafter, the Village Finance Director shall add a penalty of 10%. In the event any such utility bill is not paid on or before November 15 thereafter, the Finance Director shall place the amount of such arrearage, together with penalty, on the tax roll as tax against the lot or parcel of real estate for which sewer services were provided.

(5) JOINT LIABILITY FOR UTILITY BILLS. The owner of the premises, the occupant thereof and the user of the service shall be jointly and severally liable to pay for the service to such premises and the service is furnished to the premises by the Village only upon the condition that the owner of the premises, occupant and user of the services are jointly and severally liable therefor to the Village.

8.63 DISPOSITION OF REVENUE.

(1) SEWER UTILITY ACCOUNT. The amount received from the collection of charges authorized by this subchapter shall be credited to a sewer utility account which shall show all receipts and expenditures of the sewer system.

(2) REPLACEMENT EXPENSES. Charges collected for replacement expenses shall be credited to a segregated, non-lapsing replacement account to be used exclusively for replacement of capital facilities and equipment.

(3) APPROPRIATIONS. When appropriated by the Village Board, the credits to the sewer utility account shall be available for the payment of the expenses of operation, maintenance, repairs, and depreciation of the sewage system consistent with 40 CFR 35.929. Any surplus outside the purview of 40 CFR 35.929 in said account shall be available for the payment of principal and interest of bonds issued and outstanding or which may be issued to provide funds for said additions and improvements and other necessary disbursements or indebtedness, and the Village Board may pledge such surplus or any part thereof for any such purpose. All present outstanding sewer system general obligations bonds, including refunding bonds, shall be paid from the sewer utility account as to both principal and interest.

(4) EXCESS REVENUES. Excess revenues collected will be applied to operation and maintenance costs for the next year.

8.64 AUDIT. The Village shall conduct an independent annual audit of all accounts maintained for the deposit or disbursement of charges collected pursuant to this subchapter. Results of the audit shall be used to ensure that adequate revenues are available relative to increasing operation, maintenance and replacement costs and debt service. The findings and recommendations of the audit shall be published.

8.70 VIOLATIONS AND PENALTIES.

(1) DAMAGE TO THE SYSTEM. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the sewer system.

(2) WRITTEN NOTICE OF VIOLATION. Any person connected to the sewage system found to be violating a provision of this subchapter other than those set forth under sub. (1) shall be served by the Director of Public Services with written notice stating the nature of the violation and providing a reasonable time for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease and/or correct all violations in accordance with the notice.

[Am. 15-33, Eff. 07-07-15]

(3) IMPROPER DISCHARGE.

(a) Any person found to be responsible for accidentally or intentionally allowing a deleterious discharge into the sewer system which causes damage into the sewage system and/or receiving water body shall, in addition to the applicable forfeiture, pay all damages caused by such discharge.

(b) Any person responsible for an accidental or intentional discharge that may have a detrimental impact on the sewer system shall immediately report the nature and amount of the discharge to the Madison Metropolitan Sewage District and the Village.

(4) LIABILITY TO VILLAGE OF DEFOREST FOR LOSSES. Any person violating any provision of this chapter shall be liable to the Village for any expense, loss, or damage occasioned by reason of such violation or which the Village may suffer as a result thereof.

(5) DAMAGE RECOVERY. The Village shall have the right of recovery from all persons for any expense incurred for the repair or replacement of any part of the sewage system damaged in any manner by any person by the performance of any work under their control, or by any negligent acts.

(6) PENALTIES.

(a) Any person who shall violate any of the provisions of this subchapter or any rules, regulations or orders of the Village or who shall connect a service pipe or discharge without first having obtained a permit therefor; or who shall violate any provision of the Wisconsin Statutes, Wisconsin Administrative Code, or any other regulations which are incorporated in this subchapter by reference, shall, upon conviction thereof, forfeit not less than \$100.00 nor more than \$500.00 plus any applicable penalty assessments, jail assessments and the costs of prosecution. Each day in which any violation continues shall be deemed a separate offense.

(7) APPEAL PROCEDURES.

(a) Any user affected by any decision, action or determination, including cease and desist orders, made in the interpretation or implementation of this subchapter may file with the Village a written request for reconsideration within ten (10) days of such decision, action,

or determination setting forth in detail the facts supporting the user's request for reconsideration.

(b) The Village, upon receiving the request for reconsideration, shall publish the request in the local newspaper and the Village Board shall render a decision on the request for reconsideration to the user in writing within fifteen (15) days of receipt of the request. The cost of publication shall be paid by the applicant at the time reconsideration is requested.

SUBCHAPTER III **DEFOREST STORMWATER UTILITY**

[Created 04-31, Eff. 11-15-04]

8.80 STORMWATER UTILITY ESTABLISHED. The DeForest Stormwater Utility is hereby established as a separate utility of the Village to operate and maintain the stormwater management facilities and functions of the Village in accordance with the policies and directives of the Village Board and this subchapter.

8.81 AUTHORITY. The Stormwater Utility is created pursuant to the authority provided in Chapters 61 and 66 of the Wisconsin Statutes including, without limitation, the authority granted in the following sections: §§61.34, 61.36, 66.0621, 66.0627, 66.0701, 66.0703, 66.0809, 66.0811, 66.0813 and 66.0821.

8.82 MANAGEMENT AND OPERATIONS. The operation of the Stormwater Utility shall be under the general supervision of the Village Board. The Director of Public Services will oversee and be in charge of the day to day operations of the Utility.

[Am. 15-33, Eff. 07-07-15]

8.83 POWERS AND DUTIES.

(1) Facilities. The Village, through the Stormwater Utility, may acquire, construct, lease, own, operate, maintain, extend, expand, replace, clean, dredge, repair, manage and finance such facilities as are deemed proper and reasonably necessary for a system of storm and surface water management. Such facilities may include, without limitation by enumeration, surface and underground drainage facilities, sewers, watercourses, retaining walls, ponds, basins, streets, roads, ditches and such other facilities as will support a stormwater management system.

(2) Rates and Charges. The Village Board, shall establish such rates and charges as are necessary to finance any necessary property or easement acquisition and the planning, design, construction, maintenance and operation of stormwater management facilities in accordance with the procedures set forth in this subchapter for the Stormwater utility. The Village may advance funds or services to the Stormwater Utility from time to time and the Utility shall reimburse the actual amount or value of such advances as determined by the Village Board.

(3) Budgeting Process. The Director of Public Services shall prepare an annual budget for the stormwater utility, which shall include all operation, maintenance and capital costs, debt service and other costs related to the operation of the utility. The costs shall be allocated among the various rate classifications as determined by the Village Board. The

budget shall be approved by the Board in accordance with the procedures and requirements of Wis. Stats. §65.90.

[Am. 15-33, Eff. 07-07-15]

(4) **Excess Revenues.** All stormwater fees collected, and any other revenues appropriated to, or attributable to the operation of, the stormwater utility shall be maintained in a segregated Stormwater Utility Enterprise Fund. Any excess of revenues over expenditures from stormwater utility operations in a given year shall be maintained in the Enterprise Fund and shall be used in future years exclusively for purposes consistent with this subchapter.

8.84 DEFINITIONS. As used in this subchapter, the following terms have the meanings set forth below:

(1) "Director" shall mean the Director of Public Services or his or her designee.
[Am. 15-33, Eff. 07-07-15]

(2) "Equivalent Runoff Unit" or "ERU" shall mean the estimated average horizontal measurement of impervious area of a fully developed single family parcel within the Village as determined from time to time by the Village Board. One ERU is determined on the effective date of this subchapter to be equivalent to 2900 square feet.

(3) "Impervious Area" or "Impervious Surface" shall mean a horizontal surface, or the horizontal area included in a sloped surface, that is compacted or covered with a layer of material such that it significantly reduces the ability of rainwater or other surface water to penetrate the ground below. The term includes, but is not limited to, semi-impermeable surfaces such as compacted clay, as well as streets, roofs, sidewalks, patios, parking lots, driveways and other similar surfaces.

(4) "Duplex" shall mean a residential building containing two dwelling units.

(5) "Duplex Unit" shall mean a dwelling unit within a duplex.

(6) "Dwelling Unit" shall mean one or more rooms within a building that are arranged, designed or used as living quarters for one group of individuals living as a single housekeeping unit.

(7) "Farmstead Home Site" shall mean that portion of any agricultural property which contains a single family home, duplex unit or multifamily unit, regardless of whether the dwelling unit is on a separate lot or parcel.

(8) "Lot" shall have the meaning defined in §15.02(43) of this Code.

(9) "Multifamily Property" shall mean a residential building consisting of three or more dwelling units.

(10) "Multifamily unit" shall mean a dwelling unit within a multifamily property.

(11) "Non-residential Property" shall mean any developed lot or parcel other than residential property as defined herein, and includes, but is not limited to, transient rentals (such as hotels and motels), mobile-home parks, commercial, industrial, institutional, governmental property and parking lots.

(12) "Residential Property" shall mean any lot, parcel or farmstead home site developed for residential purposes including single family homes, duplex units, multifamily units, but not including transient rentals (such as hotels and motels) and mobile-home parks.

(13) "Single Family Home" shall mean any residential building containing only one single dwelling unit.

(14) "Undeveloped Property" shall mean property that has not been altered by the addition of any improvements such as a building or other structure, paving or the installation of substantial impervious landscaping; A property shall be considered developed pursuant to this chapter, upon issuance of a certificate of occupancy, or upon substantial completion of construction if no such certificate is issued or where construction is at least 50% complete and construction is halted for a period of three (3) months.

8.85 RATES AND CHARGES.

(1) The rates charged by the Stormwater Utility shall be established from time to time by Village Board resolution at sufficient levels to fund the capital, operating and other expenses set forth in the adopted budget which are not funded by other sources of revenue. Service charges so established shall be in addition to any assessments or charges imposed under any other provision of this Code.

(2) A copy of the current rates shall be maintained at all times on file with the Village Clerk and available to the public during normal business hours.

(3) Service charges established by the Board may include the following components:

(a) Equivalent Runoff Unit Charge (ERU). The ERU charge shall be the basic service fee charged to each property in the Village based upon the amount of impervious area as reasonably determined by the Director under §8.87.

(b) Special Charge (SC). A special charge may be imposed on property located in an area specially benefited by a particular stormwater management facility or service. Any special charge will be developed to reflect the benefits and/or services in a particular area which the Board determines cannot equitably be charged to all property throughout the Village.

(c) Connection Charge. A one-time charge may be imposed when a property is converted from undeveloped to developed property or otherwise becomes connected to the Village stormwater management system. The charge shall be determined by the Village Board from time to time, and may vary based on the size of the parcel of property or other factors determined appropriate by the Village Board.

(4) The Village Board may make such other classifications of properties or customers in order to achieve a reasonable and fair allocation of the costs of the Stormwater Utility among the properties benefited.

8.86 CREDITS.

(1) The Village Board may grant credits against the ERU, SC and connection charges as provided in this section. The total of all credits may not exceed 50% of applicable charges.

(2) Any property owner requesting a credit shall file with the Director an application therefor on a form provided by the Director, together with a review fee established by the Village Board, identifying the stormwater facilities, management practices or services for which the credit is claimed and the financial benefit to the utility. If the Director determines that additional engineering analysis is necessary to properly complete his or her review and to make an appropriate recommendation thereon, the Director may deny the application unless the applicant agrees to pay the cost of the necessary engineering services.

(3) Credits may be granted under any of the following circumstances:

(a) Any multifamily or nonresidential property owner may seek a credit against the ERU charge where the owner has installed and maintained facilities that result in the detention, retention, or infiltration of stormwater on site and such facilities demonstrably reduce the financial obligations of the stormwater utility.

(b) Any multifamily or nonresidential property owner may seek a credit against the ERU charge for that portion of the property that does not drain into any stormwater conveyance or facility operated or maintained by the stormwater utility.

(c) Any property owner may seek a credit against the SC charge if stormwater from the property does not drain into any stormwater conveyance or facility that is the subject of the special charge.

(d) Any property owner may seek a credit against any applicable charges based on services rendered to, and at the request of, the Utility in the form of public educational programs relating to stormwater management or other topics determined to be beneficial to the Utility by the Village Board.

(4) The Director shall evaluate the quantifiable benefits in both quantity and quality management measures in reviewing requests for credits, where applicable. In all cases, the Director shall submit a written recommendation to the Village Board as to whether a request for credit should be granted, denied, or granted in part and denied in part. The written recommendation shall also set forth the reason or reasons for such recommendation.

(5) Credit applications shall be decided by the Village Board and shall be either one-time credits or may be continuing credits against recurring charges as determined appropriate by the Village Board. The Village Board shall grant a credit under sub. (3)(a) only if it finds all of the following:

(a) If the credit is based on special facilities or management practices under sub. (3)(a):

1. The facilities installed or practices undertaken will reduce the expenses incurred by the utility by limiting the quantity and/or improving the quality of discharges into the facilities of the utility from the property;
2. The property owner has, by contract, deed restriction or other method approved by the Village Board, ensured that the Village may legally enforce any operational or maintenance programs necessary to assure that the facilities or practices will continue to provide the benefits on which the credit is based;
3. The investment of the property owner in the facilities or management practices exceeded the investment that would otherwise be necessary in order to comply with any other Village ordinance or to obtain any land division or development approval from the Village;
4. The investment of the property owner in such facilities or management practices is disproportionate to the investment made by the average property owner subject to the same normal charges such that it would be inequitable to charge the applicant on the same basis; and
5. The amount of the credit does not exceed the cost savings to the utility from the facilities and management practices maintained by the applicant.

(b) If the credit is based on sub. (3)(b) or (c):

1. That the absence of drainage from the property or a portion thereof into the facilities of the Utility results in financial savings to the Utility.
2. Adequate assurances are provided that the area of the property for which the credit is given will not be altered in such a way as to allow drainage into the facilities operated by the Utility.
3. The drainage from the property is managed in a way which complies with all Village ordinances and does not cause a nuisance condition.
4. The amount of the credit does not exceed the cost savings to the utility determined under subparagraph 1.

(6) The Village Board may revoke the credit in any case where the circumstances forming the basis for the credit have materially changed. The Village Board shall provide at least 30 days advance written notice of any proposed credit revocation.

(7) A denial or revocation of any credit may be appealed under §8.89.

8.87 CUSTOMER CLASSIFICATIONS.

(1) For purposes of imposing the ERU charges, all lots and parcels within the Village shall be classified into the following five (5) customer classes:

- (a) Residential –Single Family, including Farmstead Home Sites
- (b) Residential – Duplex

- (c) Residential – Multifamily, including condominiums
 - (d) Non-residential
 - (e) Undeveloped
- (2) The Community Development Director shall prepare a list of properties within the Village and assign a customer classification to each lot or parcel.
- (3) ERU's shall be calculated for each property classification as follows:
- (a) Residential – Single Family: 1 ERU.
 - (b) Residential – Duplex: 2 ERU.
 - (c) Residential – Multifamily: For multifamily residential properties, the initial ERU value shall be .7 times the number of dwelling units. Within 2 years of the adoption of this subchapter, the Director shall be responsible for determining actual impervious area and calculating ERU values in the same manner as ERU values are calculated for non-residential properties under paragraph (d).
 - (d) For non-residential properties greater than 3 acres, the Director shall be responsible for determining the impervious area from available information, including, but not limited to, data supplied by the Village Assessor, the property owner, tenant or developer, aerial photography, or by actual on site measurement. The Director may require additional information from the property owner as necessary to make the determination. The ERU value for a nonresidential property shall be determined by dividing its impervious area by the number of square feet per ERU and rounding the quotient to the next higher .1 ERU. The billing amount shall be updated by the Director as necessary based on changes to the amount of impervious area on the property.
 - (e) For non-residential parcels less than 3 acres the Director shall determine the initial ERU value by multiplying the total area of the parcel by the permitted density of development factor pursuant to the Zoning Code and dividing the product by the number of square feet per ERU. The property owner may seek an adjustment of the ERU determination by providing appropriate information demonstrating the propriety of a different calculation. Within 2 years of the adoption of this subchapter, the Director shall be responsible for determining actual impervious area and calculating ERU values as per the provisions in paragraph (d).
 - (f) Undeveloped Properties: 0 ERU.

8.88 BILLING AND PENALTIES.

- (1) Stormwater Utility charges will be billed periodically with the billing dates corresponding to the billing dates for water and sanitary sewer service. All charges shall be due and payable twenty (20) days after the date of billing.
- (2) Billings for Stormwater Utility charges shall be mailed to the designated water utility bill recipient. The owner of the property shall be liable for all stormwater utility charges in the event payment is not made as required in this subchapter. The owner of any property

served which is occupied by tenants shall have the right to examine collection records of the Village to determine whether such charges for such property have been paid at the office of the Utility Billing Clerk during normal business hours.

(3) Any Stormwater Utility charges remaining unpaid more than twenty (20) days from the date of billing shall be deemed delinquent and shall be subject to a late payment charge equal to three percent (3%) of the delinquent charges in addition to all other charges. All delinquent charges shall be collected as provided in Wis. Stats. §§66.0821(4) and 66.0809. [Subsection Am. 06-29, Eff. 7-17-06]

8.89 APPEALS.

[Am. 19-013, Eff. 7-26-19]

(1) Any stormwater utility charge, determination of ERUs, or ERU credits for any individual property may be appealed by filing a written appeal with the Village Clerk not later than thirty (30) days after the date the payment is due. The appeal shall specify all bases for the appeal and the amount of the stormwater charge the appellant asserts is appropriate. Any appeal not filed within the time permitted by this section shall be deemed waived. As a condition to maintaining an appeal, the appellant shall pay all charges billed under protest prior to filing the appeal.

(2) The Village Board shall review the appeal and determine whether the challenged determination is fair and reasonable and consistent with the provisions of this subchapter, and whether a refund is due the customer. The Village Board shall provide the appellant with written notice by regular mail at least 10 days prior to the meeting at which the appeal will be reviewed, and an opportunity to present evidence and be heard on the appeal at such meeting. The Village Board shall provide the appellant with its decision in writing within 15 days after the date of the decision.

(3) If the Village Board determines that the decision appealed from should be reversed or modified, it shall determine whether a refund is due the customer. Any refund ordered shall be applied as a credit against the customer's next stormwater billing if the refund will not exceed the customer's next quarterly stormwater billing, and otherwise will be refunded by the Finance Director.

8.90 SPECIAL ASSESSMENT AND CHARGES.

(1) In addition to any other method for collection of the charges established pursuant to this subchapter for Stormwater Utility costs, the Village Board may order that the charges be levied against the property as a special charge pursuant to Wis. Stat. § 66.0627. The mailing of an invoice reflecting the charges due to the owner shall be notice to the owner that failure to pay the charges when due may result in such charges being placed upon the tax roll.

(2) In addition to any other method of charging for Stormwater Utility expenses, the Village Board may by resolution levy special assessments on property in a limited and determinable area for special benefits conferred upon property by any public improvements pursuant to Wis. Stat. § 66.0703. The failure to pay such special assessments shall result in a lien on the property and shall be enforced pursuant to Wis. Stat. §66.0703(13).

8.91 SEVERABILITY. If any provision of this subchapter is found to be invalid or unenforceable for any reason, such determination shall not affect the validity or application

of, the remaining provisions. A determination of invalidity or unenforceability of any provision as applied to any specific property or circumstance shall not affect the validity and application of such provisions to any other property or circumstances.

CHAPTER 9 LICENSES AND PERMITS

9.01	Intoxicating Liquor and Fermented Malt Beverages.....	9-1
9.015	Licensing and Regulation of Adult Oriented Businesses	9-9
	[Cr. 05-14, Eff. 4-21-05]	
9.02	Cigarette Retailer License	9-24
9.03	Amusement Device License.....	9-24
9.04	Closing Out Sales	9-25
9.05	Regulation and Licensing of Direct Sellers and Solicitors	9-25
9.055	Special Event Vendor Licenses	9-34
9.06	Junk Dealers.....	9-36
9.07	Licensing of Animals	9-37
9.08	Regulation and Licensing of Bicycles	9-44
9.09	Penalty	9-46
9.10	Payment Of Outstanding Obligations	9-46
9.11	Reversed Payments	9-47

9.01 INTOXICATING LIQUOR AND FERMENTED MALT BEVERAGES.

(1) STATE STATUTES ADOPTED.

[Am. 16-11, Eff. 04-19-16]

(a) Except as modified by the provisions of this chapter, the provisions of Ch. 125, *Wis. Stats.*, relating to the sale of intoxicating liquor and fermented malt beverages, are hereby adopted and made a part of this chapter by reference, except that the penalties for violations shall be as set forth in this chapter.

[Renumbered 16-11, Eff. 04-19-16]

(b) Notwithstanding any other provision of this section, no permit or license shall be required for the sale of fermented malt beverages on behalf of the Village in any Village park, provided that the fermented malt beverages are sold by officers or employees of the Village.

[Par. (b) cr. 16-11, Eff. 04-19-16]

(2) LICENSES.

(a) When Required. No person, except as provided in sub. (1) of this section, shall distribute, vend, sell, offer or keep for sale at retail or wholesale, deal or traffic in, or, for the purpose of evading any law or ordinance, give away any intoxicating liquor or fermented malt beverage, or cause the same to be done without having a valid license or permit as provided in this section or in Chapter 125, *Wis. Stats.*, nor without complying with all the provisions of this section and all statutes, ordinances and regulations of the State and Village applicable hereto.

[Repl. & Recr. 94-7, Eff. 02-21-94]

(b) Separate License Required for Each Place of Sale. Except as provided in §125.26(2m) or §125.51(3)(bm), *Wis. Stats.*, governing hotel rooms, a separate license shall be required for each stand, place, room or enclosure or for each suite of rooms or enclosures which are in direct connection or communication where intoxicating liquor or fermented malt beverages are kept, sold or offered for sale; and no license shall be issued to any person for the purpose of selling or offering for sale any intoxicating liquor or

fermented malt beverage in any dwelling house, flat or residential apartment. The term "dwelling house" as used in this section shall not include a hotel or licensed bed and breakfast establishment.

(3) LICENSE FEES. There shall be the following classes and denominations of licenses which, when issued as provided in this section, shall permit the holder to sell, deal or traffic in intoxicating liquor or fermented malt beverages as provided in §§125.17, 125.18, 125.25, 125.26, 125.28(1) and (2), 125.51 (2), (3) or (10), Wis. Stats.

[Am. 20-04, Eff. 5-20-20]

(a) Class A Intoxicating Liquor License. A "Class "A" license authorizes the retail sale of intoxicating liquor for consumption off the premises where sold in original packages or containers. The annual license fee shall be [\$500.00].

(b) Class "A" Fermented Malt Beverage License. A Class "A" license authorizes the retail sale of fermented malt beverages for consumption off the premises where sold in original packages and containers. The annual license fee shall be \$152.50 Class "A" liquor licensed premises or \$300.00 for all other premises.

(c)1. Class B Intoxicating Liquor Retailer's License. A "Class B" license authorizes the retail sale of intoxicating liquor for consumption on the premises where sold by the glass and not in the original package or container, the sale of wine in the original packages or container for off-premises consumption and, pursuant to §125.51(3)(b), *Wis. Stats.*, the sale of intoxicating liquor in the original package or container in multiples not exceeding 4 liters at any one time to be consumed off the premises where sold. A "Class B" license issued to a winery authorizes only the sale of wine either by the glass for on-premises consumption or in the original package or container for off-premises consumption. A "Class B" license may be issued only to the holder of a Class "B" fermented malt beverage unless the applicant is a winery as provided in §125.51(3)(am), *Wis. Stats.* The annual fee shall be \$500.00.

[Am. 99-17, Eff. 4-23-99]

2. In addition to the annual fee, the fee for initial issuance of a reserve Class "B" license, as defined in §125.51(4)(a)4, *Wis. Stats.*, shall be \$10,000.00.

[Am. 99-27, Eff. 5-17-99]

(d) Class "B" Fermented Malt Beverage License. A Class "B" license authorizes the retail sale of fermented malt beverages to be consumed either on the premises where sold or off the premises. The annual fee shall be \$100.00.

(e) Class "B" Fermented Malt Beverage Retailer's License For Brewers. Class "B" Fermented Malt Beverage Retailer's Licenses for Brewers shall be issued pursuant to §125.31(1), *Wis. Stats.*.

(f) Operators' Licenses. 1. An operator's license authorizes the holder to sell alcohol beverages from a licensed premises without the immediate supervision of the licensee or other person otherwise required by §125.68(2), *Wis. Stats.*, or sub. (10) of this section. The annual license fee shall be \$35.00, which shall include a \$5.00 fee for police background checks. The \$5.00 fee for the background check shall be paid upon filing of a completed operator license application form. The balance of the fee shall be due at the time of license issuance or renewal.

[Am. 96-30, Eff. 07-01-96; Am. 98-25, Eff. 11-5-98; Am. 03-05, Eff. 6-1-03; Am. 03-33, Eff. 9-15-2003]

2. **Temporary Operators' Licenses.** A temporary operator's license may be issued to an operator employed by, or donating his or her services to, a nonprofit corporation. No person shall hold more than one temporary operator's license in any year. A license issued under this subparagraph shall be valid for a period of not more than 14 days and the approved effective period shall be stated on the license. The fee for a temporary operator's license shall be \$10, including a \$5.00 fee for a police background check which shall be paid at the time of application. The balance of the fee shall be due at the time of license issuance. A temporary operator's license may not be renewed.

[Cr. 03-33, Eff. 9-15-2003]

(g) **Wholesaler's Fermented Malt Beverage License.** A Wholesaler's Fermented Malt Beverage License authorizes the sale of fermented malt beverages only in the original packages or containers to retailers or wholesalers for ultimate consumption off the wholesaler's premises. The annual license fee shall be \$25.00.

(h) **Temporary Class "B" Fermented Malt Beverage License.** Temporary Class "B" licenses may be issued to bona fide clubs, to county or local fair associations or agricultural societies to churches, lodges or societies which have been in existence for at least six (6) months prior to the date of application and to posts of veterans' organizations authorizing the sale of fermented malt beverages at a particular picnic or similar gathering at a meeting of the post, or during a fair conducted by the fair association or agricultural society. License fees shall be \$10.00 for each event and shall be valid for not more than 3 consecutive days.

(i) **Class C" Wine License.** A "Class C" license authorizes the retail sale of wine by the glass or in an opened original container for consumption on the premises where sold. A "Class C" license may be issued to a person qualified under sub. (6) for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which does not have a barroom or for a restaurant in which the sale of alcohol beverages accounts for less than 50% of gross receipts and which has a barroom in which wine is the only intoxicating liquor sold. As used in this subsection "barroom" means a room that is primarily used for the sale or consumption of alcohol beverages. A "Class C" license shall particularly describe the premises for which it is issued and may not be issued to a foreign corporation, a foreign limited liability company or a person acting as agent for or in the employ of another. The annual fee for a "Class C" license shall be \$100.

[Repl. & Recr. 03-33, Eff. 9-15-2003]

(j) **Semi-annual License.** Semi-annual "Class A", "Class B" and "Class "B" licenses may be issued pursuant to secs. 125.26(5) and 125.51(9), *Wis. Stats.* Such licenses are not renewable during the calendar year in which issued. License fees shall be one-half the annual fee for the same class of license.

(k) **Provisional Operator's License.** A provisional operator's license shall be issued by the Village Clerk, upon request, to any person qualified under sec. 9.01(6)(e) of this Code. License fees for provisional operators' licenses shall be \$15.00 and shall be paid along with any fee for publication, as set forth in sec. 9.01(5) of this Code. A provisional operator's license expires sixty (60) days after its issuance, or sooner if a license under §125.17(1), *Wis. Stats.* is issued to the holder or if the license is revoked, and authorizes only the activities that the operator's license applied for would authorize. Section 9.01(4) of this Code does not apply to provisional operators' licenses.

[Am. 00-55, Eff. 10-16-00; Am. 20-04, Eff. 5-20-20]

(l) Provisional Retail License. A provisional retail license shall be issued by the Village Clerk, upon request, to any person qualified under sec. 9.01 (6)(f) of this Code. License fees for provisional retail licenses shall be \$15.00 and shall be paid along with any fee for publication, as set forth in sec. 9.01(5) of this Code. A provisional retail license expires sixty (60) days after its issuance, or sooner if a Class "A", Class "B", "Class A" or "Class B" license is issued to the holder or if the license is revoked, and authorizes only the activities that the type of retail license applied for would authorize. Section 9.01(4) of this Code does not apply to provisional retail license.

[Am. 00-55, Eff. 10-16-00; Am. 20-04, Eff. 5-20-20]

(4) LICENSE PERIOD. All licenses issued under this section shall expire on June 30 next following the date of issuance. Fees for licenses provided in sub. (3)(a)-(e) issued after July 1 in any year shall be prorated based on the number of months, and any fraction thereof, remaining until their expiration. No other license fees shall be prorated.

[Repl. & Recr. 94-7, Eff. 02-21-94]

(5) ISSUANCE AND LICENSE FEES.

[Cr. 23-12, Eff.]

(a) General. License fees required under this section shall be paid by the applicant when the applicant is notified by the Village Clerk of the granting of a license. No license applied for and granted shall be issued until the appropriate license fee is received by the Village Clerk. Licenses shall be granted by the Public Safety & Security Commission, except that operator's licenses, temporary operator 's licenses and provisional operator's licenses may be issued by the Village Clerk.

(b) Any person aggrieved by a decision made by the Commission or the Clerk under this section may appeal to the Village Board in writing. Upon receipt of an appeal , the Village Clerk shall schedule the matter for consideration at a regular Village Board meeting. The Village Board shall review the decision of the Commission or Clerk de nova and may affirm , reverse or modify the decision and may grant any license authorized by this section.

(c) Hearing. Prior to the revocation, suspension or non-renewal of a license issued under this Chapter, the licensee shall be entitled to a hearing before the Public Safety & Security Commission , to be represented by counsel, to cross - examine witnesses, to present witnesses on his or her own behalf under subpoena by the Village Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Commission shall prepare findings of fact and conclusions of law and make a recommendation as to what, if any, action the Village Board should take with respect to the license. The record of the hearing shall be forwarded to the Board with the recommendation . The Commission shall provide the complainant and licensee with a copy of the report.

(d) Board Action . The Village Board shall make a final determination whether to revoke, suspend or not renew a license at a duly noticed public meeting. The license holder may submit written arguments to the Board at any time prior to the hearing, and the Board shall consider such arguments in making its decision. Notwithstanding the foregoing, no new evidence not presented to the Commission shall be considered by the Board. The Village Board shall include in its minutes the reasons for the action taken. The Clerk shall notify the license holder of the Board's determination in writing, including the reasons cited by the Board in its decision. [Am. 03-17, Eff. 04-10-03; Am. 20-04, Eff. 5-20-20]

(6) QUALIFICATIONS FOR LICENSES AND PERMITS. (a) Natural Persons. Licenses related to alcohol beverages, issued to natural persons under this section, may be issued only to persons who:

[Repl. & Recr. 94-7, Eff. 02-21-94]

1. Subject to secs. 111.321, 111.322, 111.335 and 125.12(1)(b), *Wis. Stats.* do not have an arrest or conviction record.
2. Have been residents of this state continuously for at least one year prior to the date of filing the application for license.
3. Are of legal drinking age except that a person 18 years of age or older may be issued an operator's license.
4. Have submitted proof under §77.61(11), *Wis. Stats.*, that such person holds a seller's permit or has been advised that the Department of Revenue will issue a seller's permit to that person, unless such applicant is exempt under §125.04(5)(d)3, *Wis. Stats.*

(b) Criminal Offenders. No license or permit related to alcohol beverages may, subject to §§111.321, 111.322 and 111.335, *Wis. Stats.*, be issued under this section to any natural person who has habitually been a law offender or has been convicted of a felony unless the person has been duly pardoned.

(c) Corporations. No license or permit may be issued to any corporation unless the agent of the corporation appointed under §125.04(6), *Wis. Stats.*, and the officers and directors of the corporation meet the qualifications of pars. (a) and (b) above, except that par. (a)2 does not apply to officers and directors who are not the designated agent.

(d) Operator's Licenses. Paragraphs (a)2 and (a)4 of this subsection do not apply to applicants for operator's licenses.

(e) Provisional Operators' License Standards. A person is qualified to obtain a provisional operator's license if that person has submitted an application to the Village Clerk for an operator's license which states that the applicant meets the requirements for an operator's license under §§125.04(5) and 125.17(6)(a), *Wis. Stats.* and section 9.01(6) of this Code. If the applicant is otherwise qualified, but has not successfully completed a training course, as required for an operator's license under §125.17(6)(a), *Wis. Stats.*, the person is qualified for a provisional operator's license if enrolled in a qualified training course at the time of application, but the provisional operator's license shall be revoked if the applicant fails to successfully complete the training course in which her or she is enrolled. A provisional operator's license may not be issued to any person who has been denied a license by the Village under §125.17(1), *Wis. Stats.* The Village Clerk may revoke a provisional operator's license if he or she discovers that the holder of the license made a false statement on the application.

[Am. 00-55, Eff. 10-16-00; Am. 20-04, Eff. 5-20-20]

(f) Provisional Retail License Standards. A person is qualified to obtain a provisional retail license if that person has submitted an application to the Village Clerk for a Class "A", Class "B", "Class A" or "Class B" license which states that the applicant meets the requirements for a retail license under §125.51, *Wis. Stats.* and sec. 9.01(6) of this Code. A provisional retail "Class B" license may not be issued if the Village's quota under §125.51(4),

Wis. Stats. prohibits issuance of a "Class B" license. The Village Clerk may revoke a provisional retail license if he or she discovers that the holder of the license made a false statement on the application.

[Am. 00-55, Eff. 10-16-00; Am. 20-04, Eff. 5-20-20]

(7) LICENSE CONDITIONS AND RESTRICTIONS. In addition to the requirements imposed by provisions of the Wisconsin Statutes adopted by reference in sub. (1) of this section, the following conditions and restrictions shall apply to the issuance of licenses or permits pursuant to this section:

[Repl. & Recr. 94-7, Eff. 02-21-94]

(a) Effect of Revocation of License. No license shall be issued for any premises if a license covering such premises has been revoked within 6 months prior to application. No license shall be issued to any person who has had a license issued pursuant to this section revoked within 12 months prior to application.

(b) Inspection of Application and Premises. The Village Clerk shall notify the Chief of Police of all license and permit applications and these officials shall inspect, or cause to be inspected, each application and premises to determine whether the applicant and the premises sought to be licensed comply with the regulations, ordinances and laws applicable thereto and the applicant's fitness for the trust to be imposed. The Chief of Police shall furnish to the Village Board, in writing, the information derived from such investigation. No license or permit provided for in this section shall be issued without the approval of the Village Board. [Am. 20-04, Eff. 5-20-20]

(c) Health and Sanitation. No license shall be issued for any premises which does not conform to the sanitary, safety and health requirements of the Wisconsin Department of Commerce and the State Board of Health and to all such ordinances and regulations adopted by the Village.

(d) [Repealed 00-20, Eff. 6-5-00]

(e) Cessation of Operation. Where the holder of a Class "B" license ceases to operate or do business while same is validly in force and effect, the licensee, or his heirs, may, at the discretion of the Village Board, continue to hold said license for its unexpired term and shall also be eligible to apply for and receive one normal one-year renewal thereof; it being the intent and purpose of this paragraph to allow the licensee, or his or her heirs, to consummate bona fide rental or sale of the business assets involved.

(f) Review Prior to Approval. No license or permit shall be issued to any person or officer or director of a corporation unless the application therefor shall first have been reviewed and a recommendation received from the Police Department. The foregoing prerequisite shall apply to both original and renewal applications.

(g) Wearing Apparel. It shall be unlawful for any owner or operator of premises holding a Class "A," "Class A," Class "B," or "Class B," or "Class C" license to allow any person to expose to public view on the licensed premises any specified anatomical area as defined in §9.015(1)(pp), or to employ any device which is intended to give the appearance of or simulate such specified anatomical areas.

[Repealed & recreated 05-14, Eff. 4-21-05]

(h) Orderly Conduct Required. Each licensed premises shall at all times be conducted in an orderly manner and no disorderly, riotous or indecent conduct shall be allowed any time on any licensed premises. "No owner or operator of premises holding a Class "A," "Class A," Class "B," or "Class B," or "Class C" license shall allow any person on the licensed premises to publicly display or perform any specified sexual activities as defined in §9.015(1)(qq)."

[Am. 05-14, Eff. 4-21-05]

(i) Violation by Agents or Employees. A violation of paragraph (g) or (h) of this subsection by an agent or employee of a licensee shall constitute a violation of the licensee.

(8) CLOSING HOURS.

(a) "Class B" or Class "B" Premises. No premises for which a retail "Class B" or Class "B" liquor or fermented malt beverage license has been issued shall remain open for the sale of liquor or beer between 2:00 a.m. and 6:00 a.m., subject to the following exceptions:

[Repl. & Recr. 94-7, Eff. 02-21-94]

1. On Saturday and Sunday the closing hours shall be from 2:30 a.m. to 6:00 a.m.;
2. On January 1, no closed hours are required;
3. A hotel or restaurant whose principal business is the furnishing of food or lodging to patrons, bowling centers, indoor horseshoe-pitching facilities, curling clubs, golf courses and gold clubhouses may remain open for regular business but may not sell alcohol beverages during the hours otherwise limited by this section;

(b) Presence On Premises After Closing. It shall be unlawful for any person to remain in any licensed premises after closing except that any licensee, permittee, employee, salesperson, employees of licensed wholesalers and service personnel are exempt from this prohibition while performing job-related activities.

(c) Premises to Be Lighted. During closing hours, the premises shall be illuminated sufficiently and windows uncovered as to enable the premises to be observed by a police officer from without.

(9) HOURS OF SALE FOR PACKAGED GOODS.

[Repl. & Recr. 94-7, Eff. 02-21-94]

(a) No person shall sell, give, purchase or carry out from a licensed premises under this section any fermented malt beverages or intoxicating liquor in an original, unopened package, container or bottle for consumption away from such premises between the hours of 9:00 p.m. and 6:00 a.m. the following day. A winery operating under a "Class B" license may not sell intoxicating liquor between the hours of 9:00 p.m. and 8:00 a.m. on the following day.

[Am. 00-73, Eff. 12-22-00; Am. 07-01, Eff. 01-04-07; Am. 07-01, Eff. 01-05-07; Am. 18-22, Eff. 10-26-18]

(b) During all hours when sales are prohibited under par. (a), all intoxicating liquor and fermented malt beverages located on "Class A" or Class "A" licensed premises shall be

securely locked within a room, cooler, locker, building or other enclosure such that no person other than those described in sub. 10(a) may gain access thereto.

(10) SUPERVISION BY LICENSEE.

(a) Presence of Licensee or Permit Holder Required. Except as provided in pars. (b) and (c), no premises operating under a license or permit permitting the sale of intoxicating liquor or fermented malt beverages shall be open for business at any time unless there is upon the premises either the licensee or permittee, the agent named in the license or permit held by a corporation, or some person holding a valid operator's license who is responsible for the acts of all persons selling or serving any intoxicating liquor to consumers. For purposes of this subsection, any member of the licensee's or permittee's immediate family who has attained the age of 18 shall be considered a holder of an operator's license.

[Repl. & Recr. 94-7, Eff. 02-21-94]

(b) Exception - Class "A" Establishments During Prohibited Beer Sale Hours. Notwithstanding the requirements of par. (a), premises operating under a Class "A" Fermented Malt Beverage License may remain open for the conduct of regular business without the presence of a person described in par. (a) during the hours when sales of fermented malt beverages are prohibited by sub. (8).

(c) Exception - Alcohol-Free Functions. The provisions of par. (a) shall not apply to any "Class B" or Class "B" licensed premises during times specified in advance with notice to the Police Department during which no alcohol beverages are consumed, sold or given away, provided that all alcohol beverages are stored in a locked portion of the premises.

(d) Sales by Unlicensed Person. No person may serve or sell any intoxicating liquor or fermented malt beverages in or from any licensed or permitted premises unless he or she is:

1. the licensee or permittee;
2. the agent named in a license or permit held by a corporation;
3. a member of the immediate family of the licensee or permittee and is at least 18 years of age;
4. the holder of a valid operator's license; or
5. at least 18 years of age and is acting under the direct supervision of person described in subpars. 1-4.

(e) Definition - Immediate family. For purposes of this section, a person is deemed to be a member of the immediate family of the licensee only if he or she regularly resides in the same household of the named licensee. An agent named in the license issued to a corporation shall not be deemed a licensee for purposes of this paragraph.

(11) SEARCH OF LICENSED PREMISES. It shall be a condition of any license issued hereunder that the licensed premises may be entered and inspected at any reasonable hour by any police officer of the Village without any warrant and the application for a license hereunder shall be deemed a consent to this provision. Any refusal to permit

such inspection shall automatically operate as a revocation of any license issued hereunder and shall be deemed a violation of this section.

[Repl. & Recr. 94-7, Eff. 02-21-94]

(12) POSTING LICENSES. Licenses or permits issued under this section shall be posted and displayed as provided in §125.04(10), *Wis. Stats.*, and any licensee or permittee who shall fail to post his license or permit as therein required shall be deemed to be operating without a license.

[Repl. & Recr. 94-7, Eff. 02-21-94]

(13) REVOCATION, SUSPENSION AND REFUSAL TO RENEW LICENSES.

[Repl. & Recr. 94-7, Eff. 02-21-94]

(a) Procedure. Except as hereinafter provided, the provisions of §125.12(2) and (3), *Wis. Stats.*, shall be applicable to proceedings for the revocation, suspension and refusal to renew all licenses granted under this section.

(b) Repossession of License. Whenever a license under this section shall be revoked or suspended pursuant to this subsection, it shall be the duty of the Village Clerk to notify the licensee of such suspension or revocation and to notify the Chief of Police, who shall take physical possession of the license wherever it may be found and file it in the Village Clerk's office.

[Am. 20-04, Eff. 5-20-20]

9.015 LICENSING AND REGULATION OF ADULT ORIENTED BUSINESSES.

[Cr. 05-14, Eff. 4-21-05]

(1) DEFINITIONS. As used in this section:

(a) "Adult Bath House" means an establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its customers an opportunity for engaging in specified sexual activities as defined in this section.

(b) "Adult Body Painting Studio" means an establishment or business wherein customers are afforded an opportunity to paint images on a body which is wholly or partially nude.

(c) "Adult Bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein. The term includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, compact discs, digital video discs, computers or computer programs in any format, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment for observation by customers therein. The term includes a commercial establishment that, as one of its principal business

purposes, offers for sale or rental for any form of consideration instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

(d) "Adult Cabaret" means a nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or semi-nudity; or
2. Live performances that are characterized by "specified sexual activities"; or
3. Films, motion pictures, videocassettes, slides, or other photographic or computer reproductions or depictions that are characterized by the depiction or description of specified sexual activities" or "nudity".

(e) "Adult Entertainment" means any exhibition of any motion pictures, live performance, display or dance of any type, wherein a significant or substantial portion of such performance is distinguished or characterized by an emphasis on any actual or simulated performance of specified sexual activities, the exhibition and viewing of specified anatomical areas, or the removal of articles of clothing to reveal specified anatomical areas.

(f) "Adult Mini-Motion Picture Theater" means an enclosed building with a capacity for less than fifty (50) customers, including establishments that have coin operated video or motion picture booths, used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by customers therein.

(g) "Adult Motel" means a hotel, motel, or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides customers with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(h) "Adult Motion Picture Theater" means an enclosed building with a capacity of fifty (50) or more persons at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by customers therein.

(i) "Adult Motion Picture Theater (Outdoor)" means a parcel of land from which individuals may view a motion picture presented out of doors which presents material

distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activity or specified anatomical areas for observation by customers.

(j) "Adult Novelty Shop" means an establishment or business having as a substantial or significant portion of its stock and trade in novelty or similar items which are distinguished or characterized by their emphasis on specified sexual activities or specified anatomical areas or for simulation of the foregoing.

(k)1. "Adult Oriented Establishment" means an establishment which includes, but is not limited to, adult bookstores, adult motion picture theaters, outdoor adult motion picture theaters, adult mini-motion theaters, adult theaters, adult bath houses, adult body painting studios, adult motels, adult novelty shops or adult cabarets, sexual encounter centers, escort agencies, establishments featuring live sexually explicit performances, and any premises to which public customers or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a customer or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

2. Adult Oriented Establishment shall not include:

- a. theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic, social or political merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances; or
- b. any public or private school, as defined in Chapter 115, Wis. Stats., when instructing pupils as part of its curriculum.

(L) "Adult Theater" means a theater, concert hall, auditorium, or similar commercial establishment that regularly features persons who appear, in person, in a state of nudity and/or semi-nudity, and/or live performances that are characterized by the exposure of specified anatomical areas or by specified sexual activities.

(m) "Allow" shall mean to affirmatively authorize or grant permission, or to fail to take all reasonable steps to prevent, specified conduct or activities.

(n) "Booth, Room or Cubicle" means any enclosure that is specifically offered to the public or members of an adult oriented establishment for hire or for a fee as part of a business operated on the premises which offers as part of its business the entertainment to be viewed within the enclosure, including any such enclosures offered without a fee but in which the entertainment is dispensed for a fee. "Booth, room, or cubicle" does not include

such enclosures that are private offices used by the owners, managers or persons employed on the premises for attending to the tasks of their employment, which enclosures are not held out to the public or members of the establishment for hire or for a fee or for the purpose of viewing entertainment for a fee, and are not open to any persons other than employees, nor rooms in hotels, motels or other similar establishments licensed by the State of Wisconsin pursuant to Chapter 50, Wis. Stats.

(o) "Female Breast" means a portion of the human female mammary gland including the nipple and the areola.

(p) Buttocks. The area at the rear of the human body (sometimes referred to as the gluteus maximus) which lies between two (2) imaginary straight lines running parallel to the ground when a person is standing, the top such line being one-half (1/2) inch below the top of the vertical cleavage of the nates (i.e., the prominence formed by the muscles running from the back of the hip to the back of the leg) and the bottom such line being one-half (1/2) inch above the lowest point of the curvature of the fleshy protuberance (sometimes referred to as the gluten fold), and between two (2) imaginary straight lines, one on each side of the body (the "outside line"), which outside lines are perpendicular to the ground and pass through the outermost point(s) at which each nate meets the outer side of each leg, except that portion of the above-described area which is left or right of an imaginary vertical line through the anus by a distance of at least 1/6 of the width of the entire buttocks area.

(r) "Church" means any building, whether or not situated within the Village, in which persons regularly assemble for religious worship and which is intended primarily for purposes connected with such worship or for propagating a particular form of religious belief.

(s) "Customer" means any person who:

1. Is allowed to enter an adult oriented establishment in return for the payment of an admission fee or any other form of consideration or gratuity; or
2. Enters an adult oriented business and purchases, rents or otherwise partakes of any merchandise, goods, entertainment or other services offered therein; or
3. Is a member of and on the premises of an adult oriented establishment operating as a private club.

(t) "Community" when used to modify the term "standards" means the State of Wisconsin.

(u) "Day Care Center" means a facility licensed by the State of Wisconsin pursuant to §48.65, Wis. Stats., whether situated within the Village or not.

(v) "Employee" means any and all persons, including independent contractors, who work in or at, or render any services directly or indirectly related to, the operation of an adult oriented establishment.

(w) "Entertainer" any person who provides entertainment within an adult oriented establishment, whether or not a fee is charged or accepted for entertainment and whether or not entertainment is provided as an employee or independent contractor, including:

1. Any person who appears in a state of nudity or semi-nudity in a sexually oriented business; or
2. Any person who engages in live performances that are characterized by "specified sexual activities".

(x) "Escort" means a person who, for consideration, agrees or offers to act as a companion, guide, or date for another person, or who agrees or offers to privately model lingerie or to privately perform a striptease for another person.

(y) "Escort Agency" means a person or business association who furnishes, offers to furnish or advertises to furnish escorts as one of its primary business purposes for a fee, tip, or other consideration.

(z) "Harmful to Minors" means that quality of any description or representation, in whatever form, of nudity, specified sexual activities or specified anatomical areas, which taken as a whole appeals to the prurient interest in sex, which taken as a whole portrays sexual conduct in a patently offensive way, and which taken as a whole does not have serious literary, artistic, political or scientific value. Whether a work appeals to the prurient interest and whether it depicts or describes sexual conduct in a patently offensive way, and whether it has serious literary, artistic, political or scientific value are to be determined by applying contemporary community standards in the adult community as a whole with respect to what is suitable material for minors.

(aa) "Knowingly" means having general knowledge of, or reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

1. The character and content of any material described herein which is reasonably suspect under this section; and
2. The age of a minor, provided, however, that an honest mistake shall constitute an excuse from liability hereunder if the defendant made a reasonable bona fide attempt to ascertain the true age of such minor.

(bb) "Knowledge of Minor's Age" means:

1. Knowledge or information that the person is a minor; or
2. Reason to know, or a belief or grounds for belief, which warrants further inspection or inquiry of the age of the minor.

(cc) "Massage" means any process or procedure consisting of rubbing, stroking, kneading or tapping, by physical or mechanical means, upon the external parts or tissues of the body of another for consideration.

(dd) "Massage Establishment" means a place of business wherein private massage is practiced, used or made available as a principal use of the premises other than by persons licensed or certified by the Medical Examining Board, Board of Nursing, Chiropractic Examining Board, Massage Therapy and Bodywork Council or a similar regulatory agency of another state.

(ee) "Minor" means any person under the age of eighteen (18) years.

(ff) "Nude" or "Nudity" means showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering or the showing of the female breast with less than a fully opaque covering of any part of the nipple, or the showing of covered male genitals in a discernible turgid state.

(gg) "Operator" except when used to modify the term "license" means any person operating, conducting, maintaining or owning any adult oriented establishment or massage establishment.

(hh) "Premises" means the real property upon which the adult oriented business is located, and all appurtenances thereto and buildings thereon, including, but not limited to, the adult oriented business, the grounds, private walkways, and parking lots and/or parking garages adjacent thereto, under the ownership, control, or supervision of the owner or operator of the business.

(ii) "Residential" means pertaining to the use of land, whether or not situated within the Village, for purposes such as homes, townhouses, duplexes, condominiums, apartments and mobile homes, which contain habitable rooms for non-transient occupancy and which are designed primarily for living, sleeping, cooking and eating therein. Premises which are designed primarily for living, sleeping, working and eating therein shall be deemed to be residential in character unless actually occupied and used exclusively for other purposes. Hotels, motels, boarding houses, nursing homes and hospitals shall not be considered to be residential.

(jj) "Sadomasochistic Abuse" means flagellation or torture of a person by another, or the condition of being fettered, bound or otherwise physically restrained by another for sexual gratification.

(kk) "School" means a building, whether or not situated within the Village, where persons regularly assemble for the purpose of instruction or education, together with playgrounds, stadium and other structures or grounds used in conjunction therewith. The term is limited to:

1. Public and private schools used for primary or secondary education in which any regular kindergarten or grades one (1) through twelve (12) classes are taught; and
2. Special educational facilities in which students who have physical or learning disabilities receive specialized education in lieu of attending regular classes in kindergarten or any of grades one (1) through twelve (12).

(II) "Semi-nude" or "Semi-Nudity" means the exposure of a bare female breast with less than one-fourth (1/4) of the breast surface area, contiguous to and containing the areola, completely and opaquely covered.

(mm) "Sexual Conduct" means the commission of any of the following: sexual intercourse, sodomy, bestiality, necrophilia, human excretion, masturbation, sadism, masochism, fellatio, cunnilingus, lewd exhibition of human genitals, or petting of a sexual nature.

(nn) "Sexual Encounter Center" means a business or commercial enterprise that, as one of its principal business purposes, offers for any form of consideration:

1. Physical contact in the form of wrestling or tumbling between persons of the opposite sex; or
2. Activities between male and female persons and/or persons of the same sex when one or more of the persons is in a state of nudity or semi-nudity.

(oo) "Sexual intercourse" means physical sexual contact between individuals that involves the genitalia of at least one (1) person including, but not limited to, heterosexual intercourse, sodomy, fellatio, or cunnilingus.

(pp) "Specified Anatomical Areas" means less than completely and opaquely covered:

1. Human genitals or pubic region;
2. Buttock; or
3. Female breast below a point immediately above the top of the areola;
4. Human male genitals in a discernible turgid state, even if completely and opaquely covered.

(qq) "Specified Sexual Activities" mean:

1. Showing of human genitals in a state of sexual stimulation or arousal;
2. Acts of human masturbation, sexual intercourse, sodomy, bestiality, necrophilia, sadomasochistic abuse, fellatio, cunnilingus;
3. Fondling or other erotic touching of human genitals, pubic region, buttock, or female breasts, whether covered or uncovered.
4. Excretory functions as part of or in connection with any of the activities set forth in (1) through (3) above.

(rr) "Substantial" as used in various definitions, shall mean fifty percent (50%) or more of a business' stock in trade, display space, floor space or retail sales in any one (1) month during the license year.

(2) PUBLIC INDECENCY PROHIBITED. (a) No person shall, within the Village of DeForest municipal limits, knowingly or intentionally, in a public place, do any of the following:

1. Engage in specified sexual activities;
2. Display any specified anatomical areas; or
3. Appear in a state of nudity.

(3) EXPOSING MINORS TO HARMFUL MATERIALS.

(a) It shall be unlawful for any person for monetary or other consideration, to knowingly exhibit to a minor, or to knowingly facilitate a minor's access to premises whereon there is exhibited, a motion picture, show or other presentation which in whole or in part depicts nudity, or specified sexual activities and which is harmful to minors.

(b) It shall be unlawful for any person knowingly to sell or loan for monetary consideration to a minor:

1. Any picture, photograph, drawing, sculpture, motion picture film or similar visual representation or image of a person or portion of the human body which depicts specified anatomical areas or shows specified sexual activities and which is harmful to minors.
2. Any book, pamphlet, magazine, printed matter however produced, or sound recording which contains any material enumerated in sub. (b)1 hereof, or explicit and detailed verbal descriptions or narrative accounts of specified sexual activities and which, taken as a whole is harmful to minors.

(c) It shall be unlawful for any person knowingly to admit a minor to any premises whereon there is exhibited nudity or specified sexual activities which is harmful to minors unless such minor is accompanied by his/her parent or legal guardian.

(4) ADULT ORIENTED ESTABLISHMENT LICENSE.

(a) License Required. No adult oriented establishment shall be operated or maintained within the corporate limits of the Village of DeForest without first obtaining a license to operate from the Village Clerk. A separate license shall be obtained for each premises upon which an adult oriented establishment is operated.

(c) Application. Applications for an annual adult entertainment license shall be made to the Village Clerk on a form approved by the Clerk. Each application shall include the following information:

1. The name, including all aliases, address and date of birth of applicant and all persons or entities having an ownership interest in the business to be conducted under the license;
2. Written proof that the applicant is at least eighteen (18) years of age;
3. All residential addresses used by the applicant for the past ten (10) years;
4. The business, occupation, or employment of the applicant for ten (10) years immediately preceding the date of application;
5. The exact nature of the adult entertainment to be conducted on the premises;
6. Whether the applicant previously operated an adult oriented establishment in this or any other state, county or municipality, the trade name of the business, and the name of each municipality or other unit of government which issued any license or permit for the operation of that establishment.
7. Whether any license or permit issued to the applicant has ever been revoked, suspended, limited or surrendered pursuant to a consent decree or settlement agreement or otherwise as a condition to avoid prosecution, and a full explanation of the reasons therefor.
8. All convictions of, and pending charges against, the applicant and all others with any ownership interest in the business, for violations or alleged violations of criminal and traffic laws, administrative regulations, and county or municipal ordinances, including the circumstances of the violation or alleged violation, the governmental entity which prosecuted the matter, the disposition of the charge and the date of the disposition.
9. Two (2) portrait photographs of at least two (2) inches by two (2) inches of the applicant.
10. The address of the adult oriented establishment to be operated by the applicant under the license.
11. Proof of right to occupy the premises to be operated under the license, whether by ownership, lease or otherwise.
12. If the applicant is a corporation, the name of the corporation, the date and State of incorporation, and the name and address of the registered agent of the corporation.

The failure or refusal of the applicant to provide any information required for the application, or the applicant's refusal or failure to appear at any reasonable time and place for examination under oath regarding said application, or refusal to submit to or cooperate with any investigation relating to the application, shall be grounds for denial thereof.

(c) Action on applications. The Clerk shall provide a copy of the application to the Chief of Police. The Chief shall conduct an investigation into the matters asserted in the application and submit a report and recommendations to the Village Board. A public hearing shall be held before the Village Board on the application, preceded by publication of a Class II notice. The Board may take any testimony regarding the granting or denial of such license. The Board shall approve, approve with modifications or conditions or reject the application. The reasons for the action taken shall be specified in the minutes of the Village Board. If the application is denied, conditioned or modified by the Board, the Board shall specify the findings made that support of its determination in accordance with par. (d).

(d) Standards for approval of applications. An application for an adult oriented establishment shall be granted by the Village Board if all of the following standards are satisfied:

1. Individual applicants.
 - a. The applicant is at least eighteen (18) years of age;
 - b. Subject to Chapter 111, Wis. Stats., the applicant shall not have been convicted of, or have charges pending alleging the commission of, a felony or any crime involving moral turpitude, prostitution or other crime of a sexual nature in any jurisdiction within ten (10) years immediately preceding the date of the application;
 - c. The applicant shall not have been convicted of a violation of this section within five (5) years immediately preceding the date of the application, nor have had a license or permit for the operation of an adult oriented establishment revoked, suspended or surrendered in lieu of revocation or suspension within the previous 5 years;
2. Corporate or Partnership applicants. The provisions of subparagraph 1 shall apply to all partners in the partnership and all officers and directors of a corporation.
3. The use of the licensed premises as proposed shall be allowed under the Zoning Code.
4. The applicant must have the legal right to occupy the licensed premises and conduct the proposed business on the premises.
5. The premises must be in full compliance with Village ordinances regulating buildings and property maintenance.
6. The applicant shall be a resident of the State of Wisconsin, or have appointed an agent within the State of Wisconsin who is authorized to accept legal process on behalf of the applicant.
7. The issuance of the license will not violate the limitation on the number of licenses permitted under par. (i) hereof nor the separation requirements of sub. (10).

8. All of the information required on the application has been provided and appears to be true and complete.

(f) License Term. A license granted under this subsection shall expire on June 30th of each year and each license shall be subject to revocation as hereinafter provided.

(g) Form of License. The Village Clerk shall be responsible for issuing all licenses under this subsection upon approval of the Village Board. All such licenses shall specify the nature of the license, the name and address of the holder, a description of the premises covered by the license and the dates during which it is applicable, as well as any conditions that may be imposed by the Village. All such licenses shall be open to public inspection and posted in public view on the premises for which issued.

(h) Fee. All applications for licenses or renewals under this subsection shall be accompanied by a fee of Five Hundred Dollars (\$500.00). If for any reason the license is denied, one-half (1/2) of the license fee shall be returned to the applicant. If the license is granted, the entire fee will be retained by the Village.

(i) Number of Licenses Limited. No more than three (3) annual adult entertainment licenses under this subsection allowing live adult entertainment shall be issued and in effect for all premises within the Village at any time, and no more than one (1) license shall be issued to any individual, partnership, limited liability company, or corporation or to two or more partnerships, corporations or limited liability companies who have any common ownership.

(j) Renewal. The holder of an annual license granted under this subsection shall submit an application for renewal at least sixty (60) days before the expiration of the license. The failure to comply with this application schedule shall mean that the license shall lapse and any new application shall be reviewed as a new application. A timely application for renewal shall be approved by the Village Board unless the Board finds grounds for non-renewal as provided in sub. (5).

(k) Transfer of license. No license granted under the provisions of this subsection shall be transferable to any other person or premises. All license applications shall be original or for a renewal.

(L) Display of License. An adult oriented establishment license shall be displayed in a conspicuous public place in the adult oriented establishment.

(5) LICENSE SUSPENSION, REVOCATION OR NON-RENEWAL.

(a) General. Any license granted pursuant to this section may be revoked, suspended or not be renewed by the Village Board for any of the following reasons:

1. The applicant has made any false or misleading statement on the application for the license.
2. The licensee has been convicted of violating any provision of this section, except for violations of the Zoning, Property Maintenance or Building Codes.

3. The licensee has been convicted of any two separate violations of Zoning, Property Maintenance or Building Codes which occur in the current license year.
4. Subject to §§111.321, 111.322, 111.335 and 125.12(1)(b), Wis. Stats., the license holder or an employee or performer hired by the license holder, has been convicted of a criminal offense occurring on the licensed premises.
5. The licensed premises have habitually been the source of violations of Village Ordinances or state or federal criminal laws by the license holder, employees, contractors of the license holder or customers of the business.
6. The licensee is no longer eligible to hold the license.

(b) Notice of Hearing. No license shall be revoked, suspended, or not renewed by the Village Board except upon due notice and hearing to determine whether grounds for such action exist. Such hearing shall be held before the Public Safety Committee. Notice of such hearing shall be in writing and shall state the grounds of the complaint against the licensee. The notice shall be served upon the licensee at least fifteen (15) days prior to the date of the hearing and shall state the time and place thereof.

(c) Hearing. The licensee shall be entitled to be heard, to be represented by counsel, to cross-examine witnesses, to present witnesses on his or her own behalf under subpoena by the Village Board if such is required, and the hearing may be stenographically recorded at the licensee's option and expense. At the conclusion of such hearing, the Public Safety Committee shall prepare findings of fact and conclusions of law and make a recommendation as to what, if any, action the Village Board should take with respect to the license. The record of the hearing shall be forwarded to the Board with the recommendation. The Committee shall provide the complainant and licensee with a copy of the report.

(d) Board Action. The Village Board shall make a final determination whether to revoke, suspend or not renew a license at a duly noticed public meeting. The license holder may submit written arguments to the Board at any time prior to the hearing, and the Board shall consider such arguments in making its decision. Notwithstanding the foregoing, no new evidence not presented to the Committee shall be considered by the Board. The Village Board shall include in its minutes the reasons for the action taken. The Clerk shall notify the license holder of the Board's determination in writing, including the reasons cited by the Board in its decision.

(6) REGISTRATION OF EMPLOYEES.

(a) All operators, employees, and independent contractors working in any adult oriented establishment hereunder shall, prior to beginning employment or contracted duties, register with the Village Clerk. Such registration shall include the following:

1. Name, address, birth date, any aliases used, telephone numbers, date of employment and name of employer; and
2. A current photograph at least 2" x 2" in dimensions.

(c) All registrations hereunder are valid for a period of one (1) year.

(d) The registration fee of Fifteen Dollars (\$15.00) shall be paid per registration, which shall be paid to the Village to cover costs of investigation and administration.

(7) PHYSICAL LAYOUTS OF ADULT ORIENTED ESTABLISHMENTS.

(a) Booths, Rooms and Cubicles. Any adult oriented establishment having available for customers, customers or members any booth, room, or cubicle for the private viewing of any motion picture, videotape, compact disc or live performance in which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on material depicting, describing or relating to specified sexual activities or specified anatomical areas shall comply with the following requirements:

1. Access. Each booth, room, or cubicle shall be totally accessible to and from aisles and public areas of the adult oriented establishment and shall be unobstructed by any door, lock or other device physically restricting access thereto.
2. Construction. Every booth, room or cubicle shall be constructed such that:
 - a. it is separated from adjacent booths, rooms, cubicles and any non-public areas by a wall;
 - b. it has at least one (1) side totally open to a public lighted aisle so that there is an unobstructed view at all times of anyone occupying same.
 - c. all walls are constructed of solid building materials without any openings, extended from the floor to a height of not less than six (6) feet, and be light colored, non-absorbent, smooth textured and easily cleanable.
 - d. the floor is light colored, non-absorbent, smooth textured and easily cleanable.
 - e. the lighting level within each booth, room or cubicle, when not in use, is maintained at a minimum of ten (10) foot candles as measured at the floor.
3. Occupants. Only one (1) individual shall occupy a booth, room or cubicle at any time. No occupant of same shall engage in any type of specified sexual activity, cause any bodily discharge or litter while in the booth. No person shall alter, damage or deface any portion of any such booth, room or cubicle in such a manner that it no longer complies with the provisions of this Section.

(8) RESPONSIBILITIES OF LICENSEES.

(a) Employee Registry. Every licensee under this section shall maintain a register of all employees, showing the name and aliases used by the employee, home address, birth

date, gender, telephone numbers, Social Security Number, and date of employment and termination. The register shall be maintained on the premises at all times throughout the license period. The licensee shall make the register available immediately for inspection by law enforcement officers upon demand.

(b) Vicarious liability. Every act or omission by an employee or independent contractor retained by or on behalf of the licensee to work in or on the licensed premises constituting a violation of the provisions of this section shall be deemed the act or omission of the operator.

(c) Minors. No licensee shall allow any minor to loiter in or around the licensed premises or to view sexually-explicit live adult entertainment or materials containing depictions of specified sexual activities or specified anatomical areas. No minor shall be allowed to enter or be on the premises of an adult oriented establishment at any time the adult oriented establishment is open for business

(d) Enforcement. Each adult oriented establishment shall have an attendant stationed at each public entrance to the premises at all times during regular business hours. The attendant shall be responsible for preventing any person under the age of eighteen (18) years from entering the premises. It shall be presumed that an attendant knew a person was under the age of eighteen (18) unless such attendant asked for and was furnished proof that the person was at least eighteen years old in the form of one of the following:

1. A valid operator's, commercial operator's, or chauffeurs driver's license; or
2. A personal identification card issued by the State of Wisconsin.

(e) Customer compliance. The licensee shall ensure compliance by its customers with the provisions of this section.

(f) Public information. The licensee shall ensure there is conspicuously displayed at a place near the main entrance of the establishment, any information, brochures, or pamphlets supplied by the Village containing public information relating to sexually transmitted diseases.

(g) Posting of regulations. The licensee of every adult oriented establishment that provides booths, rooms or cubicles regulated under sub. (7) shall ensure that the regulations on occupancy set forth in sub. (7)(a)3 are posted on signs, with lettering at least one (1) inch high, in conspicuous areas of the establishment and in each of the booths, rooms or cubicles.

(h) Hours of operation. No adult oriented establishment regulated by this section may remain open between the hours of 2:00 a.m. and 8:00 a.m., except on Saturday and Sunday, when the closing hours shall be between 2:30 a.m. and 8:00 a.m. No person other than the licensee or an employee of the licensee may remain on the premises during closed hours, except that persons actively engaged in making deliveries of supplies or equipment, cleaning, maintaining, or repairing any portion of the premises, or conducting other reasonably necessary business relating to the management of the premises or the administration of the business conducted thereon may be present on the premises after 6:00 a.m. on any day.

(n) Sanitary conditions. The licensee shall maintain the premises in a clean and sanitary condition at all times.

(9) REGULATIONS APPLICABLE TO PREMISES LICENSED FOR LIVE PERFORMANCES. In addition to the provision of sub. (8), the provisions of this section shall apply to all adult oriented establishments licensed for live performances featuring the display of specified anatomical areas.

1. No person shall be allowed to have any physical contact with any entertainer or employee on the premises at any time while the entertainer or employee is displaying any specified anatomical area.
2. All performances shall occur on a stage or table that is elevated at least eighteen (18) inches above the immediately adjacent floor level and that is located not less than five (5) feet from any area occupied by any customer.
3. No customer shall be allowed within five (5) feet of any entertainer whose performance includes the display of specified anatomical areas while the entertainer is performing or is displaying any specified anatomical areas.
4. The premises shall be adequately illuminated so as to permit safe ingress and egress from the premises.
5. Excessive noise emanating from the premises shall be prohibited and good order shall be maintained on the premises at all times when such premises are open for business. The licensee shall assure that the police department is promptly notified of any activity on the premises which violates any applicable state law or this Code, including, but not limited to, excessive noise, public indecency, the use or delivery of controlled substances, unlawful sexual contact, fighting, assaults, batteries, property damage or other disorderly conduct, the presence of minors on the premises, or violation of any rules established by the license holder in order to comply with this section.
6. The license holder shall insure that building capacity limits as set by the Fire Department and/or Building code are complied with at all times.
7. The license holder shall comply with all applicable State Statutes and regulations and all Village ordinances.
8. The license holder and employees on the licensed premises shall obey all reasonable orders and directions of any law enforcement officer.
9. No license holder, personally or through an agent or employee, shall advertise, allow or produce nude entertainment or performances or other forms of nudity on the premises.
10. The license holder shall not allow any person to publicly perform specified sexual activities on the licensed premises.

11. The licensee shall not allow any performer or employee to use simulated sexual organs during dances or performances.
12. No alcohol or fermented malt beverages shall be consumed on the premises and no person shall be allowed to remain on the premises during any performance if that person is intoxicated or under the influence of controlled substances.

(10) SEPARATION OF ESTABLISHMENTS FROM OTHER USES.

(a) No license for an adult oriented establishment shall be issued, and no such use shall be established, within one thousand (1,000) feet of any area zoned for residential use, or of any church, school, nursing home, public park, or day care center. No license shall be issued for an adult oriented establishment on premises located within one thousand five hundred (1,500) feet of any other establishment licensed under this section or within five hundred (500) feet of any premises operated under a "Class B" or Class "B" alcohol beverage or fermented malt beverage license.

(b) All minimum separation distances provided in this subsection shall be measured in a straight line, without regard to intervening structures or objects, from the property line of the adult oriented establishment to the nearest property line of another adult oriented establishment, school, church, nursing home, public park, day care center, residential district, or business holding an alcohol beverage license.

(11) PENALTY. In addition to any other penalty allowed by law, including any licensing action allowed under this section, whoever violates any of the provisions of this subsection shall forfeit not less than Two Hundred Fifty Dollars (\$250.00), and not more than Two Thousand Dollars (\$2,000.00) for each offense, together with all applicable assessments and court costs.

9.02 CIGARETTE RETAILER LICENSE. No person shall sell cigarettes in the Village without first obtaining a license from the Village Administrator. The provisions of §134.65, Wis. Stats., are hereby adopted and made a part of this section by reference. The license fee shall be \$100.00 per year. Licenses issued under this section shall be valid from the date of issuance and shall expire on the following June 30th.

[Am. 03-08, Eff. 2-6-03]

9.03 AMUSEMENT DEVICE LICENSE.

(1) DEFINITIONS. The following terms as used in this section shall be construed as follows:

(a) Amusement Device. Any machine operated by coin or token, commonly referred to as pinball machine, marble machine, shooting gallery, etc., and music machine or juke box, shuffle board, Keno, pool tables and any and all other devices when set up and operated in any established place of business for profit, the operation of which involves a skill feature.

(b) Gambling Device. Any instrument, device or thing used for gambling or playing any game of chance for money or any other thing of value.

(2) GAMBLING DEVICES PROHIBITED. No person shall set up for operation, operate, lease or distribute for the purpose of operation, any gambling device.

(3) LICENSE REQUIRED. It shall be unlawful for any person to own or provide any amusement device or for any person to maintain or permit the maintenance of any such amusement device on premises owned or under the control of any such person without first obtaining a license for each such device from the Village Administrator. The applicant shall provide any information required to identify the device licensed. The license fee shall be \$5 per year and the license shall be valid until the next succeeding July 1. The license, when issued, shall be posted in a conspicuous place on or near the device so licensed. Nothing herein shall be construed to authorize the licensing of slot machines or gambling devices.

9.04 CLOSING OUT SALES.

(1) LICENSE REQUIRED. No person shall conduct a closing out sale of merchandise without having first obtained a license from the Village Administrator.

(2) LICENSE FEES.

(a) For a period not exceeding 15 days - \$25.

(b) For a period not exceeding 30 days - \$50.

(c) For a period not exceeding 60 days - \$75.

(d) In addition to the fees set forth in pars. (a), (b) and (c), a fee of \$1.00 per \$1,000 of inventory to be sold.

(3) NEW INVENTORY PROHIBITED. The licensee shall sell no merchandise during the closing out sale which was not in his inventory on the date of his application for license was submitted.

9.05 REGULATION AND LICENSING OF DIRECT SELLERS AND SOLICITORS.

[Repl. & Recr. 06-33, Eff. 10-5-06; Am. 22-11, Eff. 4-16-22]

(1) GENERAL. It shall be unlawful for any person to engage in direct sales, solicitations or canvassing within the Village in violation of this section.

(2) DEFINITIONS. In this section:

(a) "Call" means to appear in person upon premises occupied by another with the intent to announce one's presence to a person within a building on the premises by knocking on a door or other part of the building, ringing a door bell, shouting or other similar means.

(b) "Canvasser" shall mean a person who engages in canvassing within the Village.

(c) "Canvassing" shall mean the act of traveling from door to door, or place to place, within the Village for the purpose of promoting, supporting, opposing, or otherwise conveying to other person any position on, or information related to, any matter of religious, political, social or other interest or any candidate for political office and who, in connection

with such activities does not solicit the present transfer of money or other thing of value or the sale of goods or services.

(d) "Charitable organization" means any of the following:

1. An organization that is described in section 501(c)(3) of the internal revenue code and that is exempt from taxation under section 501(a) of the internal revenue code.
2. A person who is or purports to be established for a charitable purpose.

(e) "Charitable purpose" means any of the following:

1. A purpose described in section 501(c)(3) of the internal revenue code.
2. A benevolent, educational, philanthropic, humane, scientific, patriotic, social welfare or advocacy, public health, environmental conservation, civic or other eleemosynary objective.

[Am. 03-16, Eff. 4-10-03; Am. 06-33, Eff. 10-5-06; Am. 22-11, Eff. 4-16-22]

(f) "Direct Sale" shall mean the sale of goods or services, the taking of orders for the later delivery of goods or services or any other activity intended to promote the sale of any goods or services, by direct, in-person communication, at any location in the Village other than the permanent business place or residence of the seller. Direct sales include, but are not limited to, the following in-person communications:

1. Door-to-door sales;
2. Sales made from vehicles or from any other temporary location not intended to be continuously occupied for business purposes for a period of at least one year;
3. The scheduling or arrangement of a consultation with another person for the purpose of promoting the sale of goods or services;
4. The acceptance of a "donation" in exchange for goods or services, or an order for goods or services, if the primary purpose of the transaction is for commercial profit; and,
5. The offering of any trial, demonstration, sample, cost estimate, or other promotion of a goods or service available for sale.

Direct sales do not include sales made through communications by mail, telephone, email, the internet or other means which do not involve direct face-to-face contact between the seller and prospective customer.

[Am. 22-11, Eff. 4-16-22]

(g) "Direct Seller" shall mean any person, other than a solicitor, conducting or attempting to conduct direct sales within the Village limits.

(h) "Goods" includes personal property of any kind and shall include goods provided incidental to services offered or sold.

(i) "Permittee" shall mean a person issued a direct sellers' permit pursuant to this Section.

[Cr. 22-11, Eff. 4-16-22]

(j) "Person" shall mean an individual, corporation, limited liability company, partnership or other entity.

(k) "Soliciting" shall mean the practice of traveling from door to door, or place to place, within the Village for the purpose of requesting the donation of money or other things of value, whether or not in connection with canvassing or other activities, provided, however, that the solicitation of funds to be sent directly to an organization by the donor or through other means not involving the direct transfer of monetary value to the a canvasser shall not be considered soliciting. "Soliciting" does not include the solicitation of items of nominal value as part of holiday customs such as "trick-or-treating" at times sanctioned by the Village.

(l) "Solicitor" shall mean any person engaged in soliciting within the Village.

(3) EXEMPTIONS. The following shall be exempt from the permitting requirements of this section:

(a) Any person delivering any lawful product or service to regular customers on established routes.

(b) Any person selling goods at wholesale to dealers in such goods.

(c) Any person selling agricultural products which such person has grown unless such sales are made door-to-door.

(d) Any person who has an established place of business where the goods being sold are offered for sale on a regular basis if the buyer has initiated contact with, and specifically authorized a home visit by, said person or his or her employees or agents.

[Am. 08-15, Eff. 5-16-08]

(e) Any person who has had, or one who represents a company which has had, a prior business transaction such as a prior sale or credit arrangement on other than a one-time basis with the prospective customer.

(f) Any person holding a sale required by statute or by order of any court and any person conducting a bona fide auction sale pursuant to law.

(g) Any employee, officer or agent of a charitable organization who engages in direct sales or solicitations for or on behalf of such organization, provided that the direct seller or solicitor is registered with the Village Clerk as provided in sub. (5).

(h) Any person engaged in canvassing but who is not engaged in any solicitation of sales or funds.

(i) Any person while operating under the authority of a special event vendor license issued under §9.055.

(4) PERMITTING OF DIRECT SELLERS.

(a) Permit Required. No person shall engage in direct sales within the Village without holding a valid and active direct sellers' permit issued by the Village Clerk. [Am. 22-11, Eff. 4-16-22]

(b) Application Requirements. Applicants for direct sellers' permits shall complete and return to the Clerk an application form provided by the Clerk containing the following information:

1. The applicant's name, permanent residence address, telephone number and any temporary address at which the applicant is currently residing;
2. The name, address and telephone number of the person or entity the applicant represents or is employed by, or whose merchandise or services the applicant proposes to promote;
[Am. 22-11, Eff. 4-16-22]
3. The temporary address from which the direct seller intends to operate, or a description of the methods to be used to contact potential customers (e.g. door-to-door);
4. A general description of the goods or services to be promoted;
[Am. 22-11, Eff. 4-16-22]
5. The proposed method of delivery of any goods sold;
6. The make, model, state of registration and license number of any vehicle to be used in the conduct of direct sales;
7. The most recent municipalities, not to exceed three (3), in which the applicant conducted direct sales;
8. The address and telephone number at which the applicant can be contacted for at least the seven (7) days after completing his or her direct sales activities in the Village;
9. A statement whether the applicant, or the business on whose behalf the applicant intends to promote goods or services, has been convicted of a violation of a municipal ordinance relating to the regulation of direct sellers or solicitors, or of any criminal offense within the previous five (5) years.
[Am. 22-11, Eff. 4-16-22]
10. A statement as to whether any charges are pending against the applicant or the applicant's employer for violation of any municipal ordinance regulating direct sellers or solicitors and the details of the charges.
[Am. 22-11, Eff. 4-16-22]

(c) Additional Application Requirements. Applicants shall present to the Village Clerk for examination and copying:

1. A driver's license or some proof of identity as may be reasonably required by the Clerk.
2. A state certificate of examination and approval from the sealer of weights and measures where the applicant's business requires use of weighing and measuring devices approved by state authorities.
3. A state health officer's certificate where the applicant's business involves the handling of food or clothing, and is required to be certified under state law; such certificate to state that applicant is apparently free from any contagious or infectious disease, dated not more than 90 days prior to the date the application for the permit is being made.

[Am. 03-11, Eff. 4-10-03; Am. 06-30, Eff. 10-5-06, Am. 22-11, Eff. 4-16-22]

(d) Application Fee. At the time of application, a non-refundable investigation fee of \$20.00 shall be paid to the Village Clerk to cover the cost of processing said registration. Applicants whose direct sales activities will be conducted on behalf of a nonprofit religious or a charitable organization are exempt from paying said fee. (e) Investigation of Applications.

1. Upon receipt of each application, the Village Clerk shall immediately refer it to the Chief of Police who shall promptly make an investigation of the statements made in such application.
2. The Clerk shall issue a permit authorizing the direct sales described in the application as soon as practicable following receipt of a report from the Chief of Police, but no later than 48 hours after receipt of the application, unless the Clerk determines one or more of the following:
 - a. The application is incomplete, or information required by sub. (4)(b) has not been provided;
 - b. Any information contained in the application, or any information provided pursuant to sub. (4)(c) is false, materially misleading or otherwise untrue.
 - c. The applicant, or the entity on whose behalf the applicant intends to solicit direct sales, has been found guilty of violating a criminal law involving fraud or an intentional violation of the personal security of another person or the property of another person, or which otherwise directly relates to the fitness of the applicant to conduct direct sales, within the previous five (5) years;
 - d. The applicant, or any person promoting goods or services for the entity on whose behalf the applicant intends to solicit direct sales has been found guilty of violating any municipal ordinance relating to the regulation of direct sellers within the previous five (5) years.

[Am. 22-11, Eff. 4-16-22]

e. Charges are currently pending against the applicant or against any person promoting goods or services for the entity on whose behalf the applicant intends to engage in direct sales for a violation of a municipal ordinance regulating direct sales, and there is probable cause to believe that the applicant committed the violation.

[Am. 22-11, Eff. 4-16-22]

(f) Effect of Permit. A permit issued under this subsection shall be valid for the calendar year in which it is issued, subject to revocation as provided in sub. (9)(b) or temporary suspension under sub. (9)(d) below.

[Am. 22-11, Eff. 4-16-22]

(g) Display of Permit Cards. The Village Clerk shall issue a permit card to each permittee under this subsection containing sufficient information to identify the permittee and showing that a valid permit has been issued to such person allowing direct sales within the Village. A permit card issued under this paragraph shall be worn and prominently displayed on the permittee at all times while engaging in direct sales. As used in this paragraph, "prominently displayed" shall mean attached to a lanyard worn around the neck or affixed to the outermost clothing of the permittee, and plainly visible to any person facing the permittee. The clerk may require one or more uniform methods of display of permit cards provided that any required fasteners shall be provided, upon request, to each permittee at their actual cost to the Village.

(5) REGISTRATION OF CHARITABLE SELLERS AND SOLICITORS.

(a) No person, other than a direct seller holding a valid permit under sub. (4), shall engage in direct sales on behalf of a charitable organization, and no solicitor shall engage in solicitations within the Village, without first being registered with the Village Clerk under this subsection.

(b) The Village Clerk shall register all charitable direct sellers and solicitors upon receipt of all of the following information:

1. proof that the charitable organization is registered under §440.42, Wis. Stats. or is exempt from the registration requirements of said section;
2. verification of the name, address and telephone numbers of the individual conducting direct sales or solicitations; and
3. proof from the charitable organization that the individual is authorized to conduct direct sales or solicitations on its behalf, specifying whether direct sales, solicitations or both are authorized.

(6) REGULATION OF DIRECT SALES, SOLICITATION AND CANVASSING PRACTICES.

(a) Prohibited Practices

1. Except as provided in par. 3, no person engaging in direct sales, solicitations or canvassing within the Village, whether or not subject to the permitting or registration requirements of this section, shall:

- a. Call at any dwelling or place used for temporary human lodging between the hours of 8:00 p.m. and 9:00 a.m., except by appointment.
[Am. 03-11, Eff. 4-10-03; Am. 06-30, Eff. 10-5-06]
- b. Call at any dwelling or other place where a sign is displayed prohibiting such calls as provided in sub. (7) unless expressly authorized in advance by the owner or occupant of such dwelling or place or exempted under sub. (8).
[Am. 08-15, Eff. 5-16-08]
- c. Call at any door, other than the front or other main entrance door, of any dwelling place unless expressly directed to another door by the owner or occupant of such dwelling or other place;
- d. Remain on any premises after being asked to leave by the owner, occupant or other person having authority over such premises.
- e. Impede the free use of sidewalks and streets by pedestrians and vehicles. Where sales, solicitations or canvasses are made from vehicles, all traffic and parking regulations shall be observed.
- f. Allow rubbish or litter resulting from his or her activities to accumulate in or around the area in which he or she is conducting direct sales, solicitations or canvassing.
- g. Use an unfair or deceptive act or practice.
- h. State or imply that a contribution being solicited is for or on behalf of a charitable organization, or use any emblem, device or printed matter belonging to or associated with a charitable organization, without first being authorized in writing to do so by the charitable organization.
- i. Use a name, symbol or statement so closely related or similar to that used by another charitable organization that the use of the name, symbol or statement would tend to confuse or mislead a person being solicited.
- j. Represent or lead anyone in any manner to believe that the person on whose behalf a solicitation or direct sale is being conducted is a charitable organization or that the proceeds of the solicitation or direct sale will be used for charitable purposes if that is not the fact.
- k. Lead anyone in any manner to believe that another person sponsors, endorses or approves a solicitation direct sale if the other person has not sponsored, endorsed or approved the solicitation or direct sale.
- l. State or imply that the fact of registration by a charitable organization with the State of Wisconsin, or the issuance by the Village of a permit for direct sales under this section, constitutes an endorsement or approval by the state or the Village.

- m. Misrepresent directly or by implication the amount or percentage of a contribution that a charitable organization will receive.
2. No direct seller shall misrepresent or make false, deceptive or misleading statements concerning the quality, quantity, or character of any goods or services offered for sale, the purpose of his or her visit, his or her identity, or the identity of the organization he or she represents.
3. Subparagraphs a – c shall not apply to canvassers, solicitors or direct sellers who are relatives, friends or neighbors of an occupant of the premises called upon, where the circumstances of the relationship fairly imply consent to contacts in the manner otherwise prohibited by those subparagraphs.

(b) Disclosure Requirements.

1. After the initial greeting and before any other statement is made to a prospective customer, a direct seller shall expressly disclose his name, the name of his company or organization he is affiliated with, if any, and the identity of goods or services he intends to promote.
[Am. 22-11, Eff. 4-16-22]
2. If the direct seller takes a sales order for the later delivery of goods, he or she shall, at the time the order is taken, provide the buyer with a written statement containing the terms of the agreement, the amount paid in advance, whether full, partial or no advance payment is made; the name, address, and telephone number of the seller, the delivery or performance date; and whether a guarantee or warranty is provided and, if so, the terms thereof.

(7) SIGNS PROHIBITING SALES, SOLICITATION OR CANVASSING CALLS. Any property owner may prohibit any direct seller, solicitor or canvasser from calling at his or her property by posting a sign prohibiting such calls as provided in this subsection. Signs shall be clearly legible and affixed to the principal building on the premises in a conspicuous location on or within three (3) feet from the front or other main entrance thereto. Such signs not exceeding thirty-six (36) square inches and containing no message other than the prohibition of calls by direct sellers, solicitors and/or canvassers shall be deemed residential signs exempt from any permitting requirement under §15.08(1)(b)20 and permitted under §15.08(7)(a) of this Code. Such signs shall be effective for purposes of this section as follows:

- (a) Signs containing the words "no peddlers," no "sales," "no sellers" or similar words shall apply to persons engaging in direct sales;
- (b) Signs containing the words "no solicitors" shall apply to persons engaging in soliciting;
- (c) Signs containing the words "no canvassers" shall apply to persons engaging in canvassing.
- (d) Any sign may contain any combination of the terms authorized by pars (a)-(c) and shall apply to direct sellers, solicitors and canvassers according to its terms.

(8) EXEMPTION LIST. Any owner or occupant of property within the Village may authorize any direct seller, canvasser and/or solicitor to call upon the premises occupied by such person by completing a form for that purpose prepared by the Village Clerk. The Village Clerk shall prepare and maintain an exemption list identifying those properties in the Village whose owners or occupants have granted limited exceptions to the prohibition contained in sub. (6)(a)1b of this section. Direct sellers, canvassers or solicitors may be authorized by individual name, organization name or general description. Upon issuance of a direct seller's permit under subs (4) or (9)(a), upon receipt of the required registration information under sub. (5)(b), or upon request by any party, the Clerk shall provide a list of addresses for which an exemption has been granted to any person under this subsection.

(9) DENIAL, SUSPENSION OR REVOCATION OF PERMIT AND APPEAL.

(a) Appeal of Permit Denial. Any decision by the Village Clerk to deny a permit application to a direct seller may be appealed to the Village Board by filing a written request with the Clerk. The Clerk shall schedule the appeal on the agenda for the next Village Board meeting, or the following meeting if the final agenda has been posted prior to receipt of the appeal, and forward the application and all written materials on which the Clerk's decision was based to the Board. The Clerk shall notify the applicant of the hearing date as soon as practicable either verbally or by mail, but not less than 72 hours before the appeal will be heard. The Board shall review the decision of the Clerk de novo.

[Renum. 03-16, Eff. 4-10-03; Am. 06-30, Eff. 10-5-06]

(b) Permit Revocation. Any permit issued under this section may be revoked by the Village Board, after notice and hearing, if the permittee made any material omission or materially inaccurate statement in the application for the permit, or was convicted of any crime or ordinance violation in the conduct of direct sales which is directly related to the permittee's fitness to engage in direct selling, or the permittee or any other direct seller working on behalf of the same entity has violated the provisions in this Section or made any fraudulent, false, deceptive or misleading statement or representation in the course of engaging in direct sales.

[Am. 03-16, Eff. 4-10-03; Am. 06-30, Eff. 10-5-06; [Am. 22-11, Eff. 4-16-22]

(c) Notice of Revocation Hearing. Written notice of a hearing on the revocation of any permit issued under this section shall be mailed to the permittee at the permanent address shown on the registration at least 7 days, or shall be served personally on the permittee at least 72 hours, prior to the time set for the hearing. Such notice shall contain the time and place of the hearing and a statement of the facts upon which the hearing will be based.

[Am. 22-11, Eff. 4-16-22]

(d) Temporary Suspension of Permit. The Village Clerk or the Chief of Police may temporarily suspend any direct sellers' permit if he or she has probable cause to believe:

1. Upon direct observation by law enforcement that the permittee has violated any of the provisions of this Section;
2. Upon investigation of resident complaints, or by direct observation by law enforcement, that two or more violations of this Section have been committed within 30 days by the permittee, one or more direct sellers promoting goods or services for the same entity as the permittee, or any combination thereof; or,

3. The permittee provided false information on his or her permit application.

Each such suspension shall be promptly referred to the Village Board and scheduled for a revocation hearing under par. (b).

[Am. 03-16, Eff. 4-10-03; Am. 06-30, Eff. 10-5-06; Am22-11, Eff. 4-156-22; Am. 22-11, Eff. 4-16-22]

(10) PENALTY.

(a) Any person convicted of violating any provision of this section shall forfeit not less than \$25 nor more than \$200 for each violation plus costs of prosecution. Each violation shall constitute a separate offense.

(b) In addition to the forfeiture provided in par. (a), restitution may be awarded to a resident in an amount up to the amount of any contract entered into by the resident with a person convicted under par. (a).

(11) RECORDS. The Chief of Police shall report to the Village Clerk all convictions for violations of this section and the Clerk shall note any such violation on the record of the person convicted.

9.055 SPECIAL EVENT VENDOR LICENSES.

(1) PERMIT REQUIRED. (a) Except as provided in par. (b), no person or organization shall display, sell, or offer to sell, on any street, sidewalk, alley or other public grounds within the Village, any goods, wares, foodstuffs or anything of value or service of any kind except pursuant to a special event vending permit issued under this section.

(b) This section shall not apply to any of the following:

1. A direct seller holding a permit issued under §9.05;
2. A person or organization conducting sales on public lands immediately adjacent to a properly zoned business establishment operated by such person or organization in compliance with a permit issued under §7.03(2)(b);
3. A person or organization selling concessions from established concession facilities in public parks pursuant to a permit issued under §16.02;
4. Sales by approved vendors at any Village-sponsored event; or
5. Sales of fermented malt beverages pursuant to a temporary class "B" license issued under §9.01(3)(h).

(c) A special event vending permit shall authorize the holders to conduct business only at the times and in the locations enumerated in the permit and subject to the regulations of this section. Where the vending is to occur in connection with a village- or area-wide promotion of community trade or a festival sponsored or coordinated by an organization, the sponsoring organization may obtain a single special event vending permit covering all vendors participating in the event.

(2) ISSUANCE OF PERMITS.

(a) Applications for special event vending permits shall be filed with the Village Clerk on a form approved by the Village Administrator. Permits shall be signed by the Village Clerk upon approval, and shall be conspicuously displayed at the place where sales are being made. The permit shall set forth the exact dates and location of the activities authorized thereby and shall be valid only during the dates and at the location specified. Where a sponsoring organization is the applicant, the applicant shall provide the Village Clerk with a complete list of participants at the time of making application, and the names of all approved participants shall be included in the permit issued by the Clerk.

(b) Upon receipt of an application for a permit, the Village Clerk shall review application for completeness. The Clerk shall notify the applicant of any deficiency in the application within three (3) days after the application is filed. .

(c) The Village Clerk shall review the application and either approve, conditionally approve or deny the permit. A permit may be denied or conditioned for any of the following reasons:

1. The application contains inaccurate, misleading or incomplete information;
2. The applicant or a participant proposed for permitting by the applicant has, within the previous 3 years, violated the provisions of this section, §7.03 or §9.05 or has been guilty of a violation of state consumer protection laws in connection with prior sales of goods or service and has failed to make full restitution thereon;
3. The activity or event proposed for permitting might reasonably be expected to cause or contribute to significant traffic problems or disruption to the provision of normal governmental services within the Village;
4. The activity or event proposed for permitting will impose an unreasonable burden on Village protective services or other resources;
5. The proposed activity poses an unreasonable risk to the public health or safety.

(d) An applicant may appeal the denial, or conditions imposed on approval, of any permit under this section to the Village Board. The Village Board may affirm, reverse or modify the decision of the Clerk based on the criteria established under par. (c). The Village Clerk shall notify all Village Board members when an application is denied. [Am. and par. (d) cr. 20-17, Eff. 6-17-20]

(3) CONDITIONS OF PERMITS. In addition to any other specific conditions imposed at the time of issuance of a permit under this section, all permittees shall fully comply with the following regulations:

[Am. 20-17, Eff. 6-17-20]

(a) Liability Insurance. Every permittee shall have in force at all times during the permit period, liability insurance insuring the permittee, all participants in an event

authorized by the permit and the Village, its officers and employees against any and all liability for death or injury to person or property caused by any activity authorized by the permit with policy limits of not less than \$1,000,000 combined single limit. The policy shall provide that it may not be canceled, non-renewed, amended or otherwise altered except upon thirty (30) days written notice to the Village. A certificate evidencing the required insurance shall be submitted to the Village Administrator not later than seven days before the start of the permitted event. The requirement for liability insurance may be waived by the Village Board if the Board determines that the event presents no foreseeable risk of injury to persons or property.

(b) Cooperation with Law Enforcement Officials. To protect the public health and safety, the permittee shall coordinate with the Chief of Police the location of all events under the permit. Proposed street and sidewalk encroachments, booth locations and special parking provisions shall be submitted to the Chief for review and approval not less than seven days before the start of the event. Approval of street and sidewalk encroachments by the Chief under this paragraph shall satisfy the permit requirements of §7.03(2)(b) and such encroachments shall be subject to the provisions of §66.0425, *Wis. Stats.*

(c) Clean-up. The permittee shall be fully responsible for all necessary clean-up associated with the licensed event. In the event that any debris, litter, refuse or waste material of any kind remains on the permitted site upon expiration of the permit other than in approved refuse containers, the permittee shall reimburse the Village for all costs incurred in restoring the site to a clean and sanitary condition.

(d) Compliance With Other Regulations. The permittee shall comply with all applicable state and county regulations governing health and sanitation for food handling establishments, if applicable, and any other applicable Village regulations. The permittee shall be jointly and severally liable for any violations of such regulations by any person or organization operating under the authority of the permit with the permittee's consent.

(4) PENALTY.

(a) Any person convicted of violating any provision of this section or of any permit issued under this section shall forfeit not less than \$10 nor more than \$200 for each violation plus costs of prosecution. Each violation and each day of a continuing violation shall constitute a separate offense.

[Cr. 05-01, Eff. 01-20-05]

9.06 JUNK DEALERS.

(1) LICENSE REQUIRED. No person within the Village shall keep, conduct or maintain any building, structure, yard or place for keeping, storing or piling in commercial quantities, whether temporarily, irregularly or continually, or for the buying or selling at retail or wholesale or dealing in any old, used or second hand materials of any kind, including cloth, rags, clothing, paper, rubbish, bottles, rubber, iron, brass, copper or other metal, furniture, used motor vehicles or the parts thereof, or other article which from its worn condition renders it practically useless for the purpose for which it was made and which is commonly classed as junk, whether with a fixed place of business or as an itinerant peddler, without first having obtained and paid a license as hereinafter provided. One carrying on the aforesaid business shall be referred to herein as "junk dealer."

(2) EXCEPTION. No license shall be required for the storage of wrecked motor vehicles stored within service garages and filling stations or on any service garage or filling station site provided that only 3 wrecked vehicles may be stored on said premises at any one time for a period not exceeding 14 calendar days.

(3) APPLICATION. Application for such license shall be made in duplicate and filed with the Village Administrator and shall be accompanied by the license fee. Such application shall set forth the name and address of the applicant and, in case of a firm, the name and residences of the members of the firm, and shall describe in detail any lot or parcel upon which the business is to be conducted, and the business operation.

(4) LICENSE FEE. The license fee shall be \$50 per year or any fraction thereof, said year to commence on July 1 and end on June 30.

(5) INSPECTION REQUIRED. The Village Administrator shall report such application to the Chief of Police and the Building Inspector, who shall inspect or cause to be inspected such premises to determine whether it complies with all laws, ordinances, rules and regulations. Said premises and all structures thereon shall be so situated and constructed that the business of junk dealer may be carried on in a sanitary manner, shall contain no fire hazards, and shall be arranged so that thorough inspection may be made at any time by the proper health, fire, building and police authorities.

(6) REFERRAL TO PLAN COMMISSION. The application shall first be submitted to the Plan Commission for a hearing to determine the suitability of the site for the business proposed thereon. The Plan Commission may recommend conditions for granting the license.

(7) REFERRAL TO VILLAGE BOARD. The application, together with the recommendation of the Plan Commission, shall be referred to the Village Board which may grant, grant with conditions, or deny the license.

(8) REVOCATION. Upon complaint being made in writing by any 3 residents or any official of the Village to the Village Board that any licensee hereunder has violated any of the provisions of this section, the Village Board shall summon such licensee to appear before it at the time specified in the summons, which shall be not less than 3 days after the date of the service thereof, to show cause why his license shall not be revoked or suspended. The Village Board shall thereupon proceed to hear the matter and if it finds that the allegations of said complaint are true, may revoke or suspend the license of such person. The provisions hereunder shall not be effective unless the licensee has received notice from the Building Inspector that a complaint has been filed with the Village Board as to the operation of his premises and such licensee has been given a reasonable time to correct the condition complained of or to otherwise satisfy such complaint.

9.07 LICENSING AND REGULATION OF ANIMALS.

(1) AUTHORITY. This section is adopted under the authority granted by §§29.604, 61.34(5) and 95.21 and Chapters 174 and 951, *Wis. Stats.* and amendments thereto.

(2) DEFINITIONS. In this section the following terms have the following meanings, unless the context or subject matter otherwise require:

(a) Animal. Mammals (including dogs and cats), reptiles, fishes, amphibians, arachnids, insects and birds.

(b) At large. To be off the premises of the owner and not under the physical control of some person either by leash or by confinement in a cage or other enclosure sufficient to prevent the animal from initiating uninvited contact with any person.

[Am. 13-11, Eff. 6-28-13]

(c) Cat. Feline, regardless of age or sex.

(d) Dog. Canine, regardless of age or sex.

(e) Experimental Animal. An animal used for scientific or educational purposes by public or private schools or businesses, including, but not limited to, mice, rats, primates, birds and frogs.

(f) Family. One (1) or more persons residing at one address.

(g) Live Box Type Traps. Traps which capture and hold an animal in an alive and unharmed condition.

(h) Neutered. As used herein to describe a dog shall mean having non-functioning reproductive organs due to surgery.

[Am. 12-29, Eff. 11-7-12]

(i) Officer. Is a Village of DeForest Police Officer or Dane County Humane Officer.

(j) Owner. Any person owning or keeping an animal. The occupant of any premises on which an animal remains or to which it customarily returns daily for a period of ten (10) days is presumed to be harboring or keeping the animal within the meaning of this section.

(k) Service Animal. Is any animal specially trained to provide assistance to an individual with a disability. Service animals include, but are not limited to, guide dogs, signal dogs and helper monkeys.

(3) REGULATION OF DOGS, CATS, AND CHICKENS.

[Am. 15-43, Eff. 09-25-15]

(a) REGULATION OF RABIES

1. Rabies Vaccination Required. Every dog or cat shall be vaccinated against rabies by a veterinarian within thirty (30) days after it reaches four (4) months of age and revaccinated within one (1) year after the initial vaccination. Every dog or cat brought into the Village after it has reached four (4) months of age, shall be vaccinated against rabies within thirty (30) days after arrival in the Village unless it has been vaccinated as evidenced by a current certificate of rabies vaccination. Every dog or cat shall be revaccinated against rabies by a veterinarian prior to the immunization expiration date stated on the certificate of vaccination or, if no date is specified, within three (3) years after the previous vaccination. The certificate of vaccination shall meet the requirement of §95.21(2), *Wis. Stats.*

2. Rabies Control. All provisions of the §95.21, *Wis. Stats.* relating to rabies control, are hereby adopted and incorporated herein by reference.

(b) DOG LICENSES.

1. Annual Licenses Required. The owner of any dog more than five (5) months of age on January 1 of any year, or which becomes five (5) months of age within the license year, shall annually, or on or before the date it becomes five (5) months of age, pay a dog license fee and obtain a license therefor.

2. Fees. The annual fee for dog licenses shall be Seventeen Dollars (\$17.00) for spayed females or neutered males. The fee for unspayed or unneutered animals shall be Twenty-four Dollars (\$24.00). The annual fee shall be reduced to Fifteen Dollars & Fifty Cents (\$15.50) for spayed females or neutered males, and Twenty Dollars (\$20.00) for unspayed or unneutered animals if the animal became five (5) months of age after July 1st during that license year. The license year shall commence on January 1 and end on December 31.

[Am. 08-40, Eff. 10-23-08; Am. 19-020, Eff. 11-20-19; Am. 19-025 Eff. 12-18-99]

3. Late Fees. The Village Clerk shall assess and collect a late fee of Five Dollars (\$5.00) from every owner of a dog five (5) months of age or over if the owner failed to obtain a license prior to April 1 of each year, or within thirty (30) days of acquiring ownership of a licensable dog or if the owner failed to obtain a license on or before the dog reached licensable age. Said late fee shall be charged in addition to the required license fee.

4. License Tag Issued. Upon payment of the required license fee, and upon presentation of evidence of current immunization against rabies, as required by sub. (3), the Village Clerk shall complete and issue to the owner a license for each dog containing all information required by State Law. The Village Clerk shall also deliver to the owner, at the time of issuance of the license, a tag of durable material bearing the same serial number as the license, the name of the county in which issued and the license year.

5. Tags to be Securely Attached to Dog. The owner shall securely attach the tag to a collar and the collar with the tag attached shall be kept on the dog for which the license is issued at all times, except when the animal is securely confined indoors.

6. Unlicensed Dog. Any Officer shall seize and impound any dog for which a license is required, which is found without such tag attached. A dog found without a tag shall be presumptive evidence the dog is unlicensed.

7. Replacement Tag. In the event a tag is lost, or is damaged so as to become unreadable, the owner shall obtain a replacement tag from the Village Clerk. The fee for a replacement tag shall be \$1.00.

8. Dogs Trained as a Service Animal. Notwithstanding the foregoing, every dog specifically trained as a Service Animal is exempt from the dog license fee, and every person owning such a dog shall receive annually a free dog license from the Village Clerk upon application.

9. All provisions of §174.053, *Wis. Stats.* relating to animal licensing, are hereby adopted and incorporated herein by reference.

(c) [Repealed 12-29, Eff. 11-7-12]

(d) **RESTRICTION ON KEEPING DOGS, CATS AND CHICKENS.**
[Am. 15-43, Eff. 09-25-15]

1. **Restrictions.** It shall be unlawful, for any person within the Village of DeForest to own or keep any dog or cat which:

- a. Habitually pursues any vehicle upon any public street, alley or highway.
- b. Habitually is at-large within the limits of the Village of DeForest.
- c. Habitually barks, howls, meows, or cries to the annoyance of any person or persons.
- d. Habitually kills, wounds or harasses any wild or domestic animal.
- e. Is known by such person to be infected with rabies or to have been bitten by an animal known to have been infected with rabies unless the animal is being kept in quarantine in accordance with the requirements of §95.21, *Wis. Stats.*
- f. Is unlicensed if a license is required by this section.
[Am. 12-29, Eff. 11-7-12]
- g. Has bitten three (3) or more persons or animals, or has inflicted serious injury to two (2) or more persons or animals, in unprovoked circumstances.
[Cr. 20-24; Eff. 10-30-20]

2. **Vicious Dogs.** A vicious dog is any dog that has bitten two (2) or more persons or animals, or has inflicted serious injury to one (1) person or animal in unprovoked circumstances. No vicious dog shall be allowed off its owner's premises unless leashed and muzzled, and under the control of a person at least sixteen (16) years of age. Any vicious dog found off its owner's premises other than as hereinabove provided may be taken into custody by the Village. This section does not apply to dogs under the control of any veterinarian for purposes of veterinarian treatment.

[Am. 20-24; Eff. 10-30-20]

3. **Bell to be Securely Attached to Cat.** There shall be attached to the collar of any cat a bell which shall be capable of being heard for at least a distance of fifteen (15) feet when worn by said cat. The bell shall be attached to the collar in such a way as to prevent the cat from carrying the bell in its mouth.

4. **Limitation on Number of Household Dogs, Cats and Chickens.**

a. **Purposes.** The keeping of a large number of dogs, cats, or chickens on one property within the Village detracts from and is detrimental to healthful and comfortable life in such areas. The keeping of a large

number of dogs, cats or chickens, is therefore, declared a public nuisance.

- b. **Number Limited.** No more than four (4) dogs and/or cats, in aggregate, and not more than six (6) chickens (hens only) may be kept in one household without prior written approval of the Village Administrator, except a litter of offspring from one (1) female dog, cat or other pet, or a portion of a litter, may be kept for not more than sixteen (16) weeks from birth.

[Am. 15-43, Eff. 09-25-15]

(e) **Finding of Public Nuisance.** All violations of the provisions of this subsection are declared to be a public nuisance.

(f) **Other Remedies Available.** Nothing in this subsection shall be construed as a limitation on other legal remedies available to the Village, including those provided under Chapters 173 and 174 of the Wisconsin Statutes.

[Cr. 20-24; Eff. 10-30-20]

(4) OWNER'S LIABILITY FOR DAMAGE CAUSED BY ANIMALS:

(a) No owner or person having custody of an animal shall allow such animal to go upon any parkway or private lands or premises without the permission of the owner of such premises and injure any lawn, flower bed, plant, shrub, tree or other animal, in any manner whatsoever.

[Am. 13-11, Eff. 6-28-13]

(b). The provisions of §174.02, *Wis. Stats.* relating to the owner's liability for damage caused by dogs, together with the penalties therein set forth, are hereby adopted and incorporated herein by reference, and shall apply, for purposes of this section, to cats and other domestic pets.

(5) ANIMAL FECES.

(a) **Person Walking Animals Required to Remove Fecal Matter.** No owner or person in charge of any animal shall permit fecal matter of said animal to be deposited on any street, alley, public park, public walkway, trail or other public property, or on any private property of another, unless such matter is immediately removed therefrom by said owner or person in charge. No person shall walk an animal beyond the limits of his/her own property without carrying or having in his/her possession an item suitable for picking up and removing fecal matter. No person shall dispose of fecal matter on any public property or private property of another.

[Am. 13-11, Eff. 6-28-13]

(b) **Accumulation of Fecal Matter Prohibited on Private Yards.** The owner or person in charge of the animals must also prevent accumulation of animal waste on her/his own property by regularly patrolling and properly disposing of the fecal matter. All violations of this paragraph are declared to be a public nuisance.

[Am. 15-43, Eff. 09-25-15]

(6) CRIMES AGAINST ANIMALS. The provisions of Chapter 951, *Wis. Stats.* are hereby adopted and incorporated herein by reference.

(7) PROHIBITED AND PROTECTED ANIMALS.

(a) Protected Animals. The provisions of §29.604, *Wis. Stats.* are hereby adopted and incorporated herein by reference.

(b) Dangerous, Poisonous or Wild Animals: Prohibition on Keeping. It shall be unlawful for any person to keep, maintain or have in her/his possession or under her/his control within the Village of DeForest any dangerous, poisonous or wild animal, including, but not limited to, the following animals:

1. All poisonous animals including rear-fang snakes, and all poisonous insects or arachnids.
2. Large Reptiles, including all alligators, crocodiles, constrictor snakes over 6 feet in length, Komodo Dragons.
3. Other large animals, including all apes, bears, bison, elephants, rhinoceroses, hippopotami.
4. Large Cats, including all cheetahs, jaguars, leopards, pumas (including mountain cats, panthers and bobcats), lynxes, lions and tigers.
5. All Coyotes, hyenas, foxes, wolves, and all wolf-hybrids.
6. Bats, raccoons and skunks.
7. All Deer, including all members of the deer family, such as elk, antelope and moose.
8. Prairie dogs and Gambian rats.
9. All cats and dogs which have not been issued a certificate of vaccination against rabies; not including dogs and cats meeting the exception described under 9.07(3)(a)(1), supra.
10. All sharks, eels, rays, piranhas, barracudas, sea bass, rabbitfish, scorpion fish, zebra fish, siganus fish, stonefish, tang fish, surgeonfish, toadfish, weever fish, Portuguese man-of-war, octopi, cone shells, terebra shells, and all fish with toxic flesh, including puffer and trigger fish.
11. All monkeys.

This prohibition does not include any service animal, including helper monkeys.

(c) Other Animals Prohibited. It shall be unlawful for any person to keep maintain or have in her/his possession or under her/his control within the Village of DeForest any of the following animals:

1. Except in an A-1 Agricultural District and an A-B Agricultural Business District, bees, cattle, sheep, goats, roosters, other fowl (except chicken hens),

ponies, horses, pigs, llamas, oxen, donkeys, mules or any other livestock or experimental animals, or any animals of a species under the jurisdiction of the Wisconsin Department of Natural Resources and/or the U.S. Fish and Wildlife Service;
[Am. 15-43, Eff. 09-25-15]

2. Animals raised for fur-bearing purposes;

(d) Diseased Animals Prohibited. It shall be unlawful for any person to keep, maintain or have in her/his possession or under her/his control within the Village of DeForest any animal carrying an infectious disease. The provisions of this paragraph do not apply where the diseased animal is in the custody of a licensed veterinarian for purposes of treating the disease, or where the owner or keeper of the diseased animal is keeping the animal in accordance with all prescribed instructions from a veterinarian who is treating the animal for the disease.

(e) Exceptions. The provisions of pars. (a) through (c) of this subsection do not apply where the animal is in the custody of a veterinarian for treatment or where the animal is in the custody of a public or private educational institution.

(f) Finding of Public Nuisance. The keeping of any dangerous, prohibited or diseased animal in violation of the provisions of this subsection is declared to be a public nuisance.

(8) KEEPING OF ANIMALS

(a) Sanitary Requirements. All structures, pens, buildings, coops or yards wherein animals or fowl are kept shall be maintained in a clean and sanitary condition, free of rodents, vermin and objectionable odors.

(b) Animals Excluded from Food Handling Establishments. No person shall take or permit to remain any dog, cat or other live animals on or upon any premises where food is sold, offered for sale or processed for consumption by the general public, except that service animals for disabled persons are permitted.

(c) Commercial Raising of Animals. The commercial raising of animals is prohibited except in those areas zoned as A-1 Agricultural District or A-B Agricultural Business District.

(d) Animals not to Run at Large. No owner or person having in her/his possession or under her/his control any animal shall allow the same to run at large within the Village. The owner of any animal, whether licensed or unlicensed, shall keep his/her animal tied, electronically collared, or enclosed in a proper enclosure so as not to allow said animal to interfere with passing public or neighbors. Any chicken enclosure (i.e. coop and fence) is considered a detached accessory building and is subject to applicable setbacks and other provisions in Chapter 15 of the Village Code. This paragraph shall not apply to dogs accompanied by a person while using a designated Village dog park in accordance with the rules and regulations governing such use.
[Am. 13-11, Eff. 6-28-13; Am. 15-43, Eff. 09-25-15]

(e) Finding of Public Nuisance. All violations of the provisions of this subsection are declared to be public nuisances.

[Am. 13-11, Eff. 6-28-13]

(9) TRAPPING OF ANIMALS.

(a) Trapping Restricted to Live Box-Type Traps. It shall be unlawful for any person to set, place or tend any trap, including, but not limited to, traps commonly known as leg traps, pan-type traps or other traps, designed to kill, catch, wound, or molest any animal, except by use of live box-type traps only. Any animal caught in live box traps shall be promptly released to an Officer or to the wild in another location, as appropriate. It shall be unlawful to confine animals caught in live box traps until they become ill or die.

(b) Trapping within Homes or other Buildings. This subsection shall not apply to trapping within the confines of homes or other buildings, except that it shall be unlawful for any person to intentionally lure, or otherwise allow a wild or domestic animal into a building or home for the purpose of trapping it in any way other than by a live box type trap.

(10) VEHICLE ACCIDENTS. The operator of any vehicle involved in an accident resulting in injury to or death of an animal which appears to be a pet shall promptly notify a Village of DeForest Police Officer and owner of said animal, if known.

(11) IMPOUNDMENT OF ANIMALS.

(a) Humane Control Agency. The Village of DeForest may contract with or enter into an agreement with such person, persons, organizations or corporations, both public or private, to provide for the operation of an animal shelter, impoundment of stray animals, confinement of certain animals, disposition of impoundment animals and for assisting in the administration of rabies vaccination programs.

(b) Impounding of Animals. In addition to any penalty provided herein for a violation of this section, any officer may impound any dog, cat or other animal which is found in violation of secs. 9.07(3), (7) or (8).

(c) Village of DeForest Not Liable for Impounding Animals. The Village of DeForest and/or its animal control agency shall not be liable for the death of any animal which has been impounded or disposed of pursuant to this section.

(12) PENALTIES.

(a) Forfeitures. Any person who violates subs. (3) – (11) of this section shall be subject to a forfeiture of not less than Twenty Five Dollars (\$25.00) and not more than One Hundred Dollars (\$100.00 for the first violation and not less than Seventy Five Dollars (\$75.00) and not more than Two Hundred and Fifty Dollars (\$250.00) for subsequent violations.

(b) Village Officers are empowered and expressly directed to enforce all provisions of this section.

[Repl. & Recr. 91-28, Eff. 11-18-91; Repl. & Recr. 07-06, Eff. 02-23-07]

9.08 REGULATION AND LICENSING OF BICYCLES.

(1) REGISTRATION REQUIRED. No resident shall operate a bicycle upon any street or public way within the Village unless the bicycle shall first have been registered by the owner and properly licensed as hereinafter provided.

(2) DEFINITION. "Bicycle" shall mean every device propelled by the feet acting upon pedals and having wheels, any 2 of which are not less than 14 inches in diameter.

(3) REGISTRATION. Registration shall be made by filing an application with the Police Department, or agency designated by the Police Department, setting forth the name and address of the owner, together with a complete description of the bicycle, and paying the registration and license fee hereinafter provided. Each registration shall be serially numbered and kept on file in the office of the Police Department. The Police Department shall keep a record of the date of issuance of each license, to whom issued, and the number thereof. Upon such registration, the Police Department shall issue a license which shall be affixed to the bicycle in a place determined by the Police Department. Such license plate shall remain so fixed to the bicycle unless removed by order of a court.

(4) LICENSE FEE. The license fee to be paid for each bicycle shall be \$3 for the period of time the bicycle is owned by the registered owner. All such license fees shall be paid over to the Village Administrator.

(5) LICENSE RENEWAL. All bicycle registrations shall be renewed whenever the original license becomes illegible or is destroyed. The license fee for renewal shall be \$2. Upon such registration a new license shall be furnished the bicycle owner or operator.

(6) LOST LICENSE. In case of theft, loss, mutilation or defacing of said license, a new license shall be issued by said Department for a fee of \$2. No person shall willfully remove, deface or destroy any such license.

(7) MUTILATION OF SERIAL NUMBER. No person shall willfully or maliciously remove, destroy, mutilate or alter the serial number of any bicycle frame licensed pursuant to this section or any license.

(8) TRANSFER OR CANCELLATION. Within 10 days after any bicycle registered hereunder shall have changed ownership or be dismantled and taken out of use, the person in whose name the bicycle has been registered shall report such information to the Police Department. In case of change of ownership, the registration shall thereupon be canceled and a new license issued to the new owner upon proper application and payment by him of the registration fee provided in sub. (4) above.

(9) INSPECTION OF BICYCLES. Every bicycle in the Village shall be inspected and examined at the Police Department or any other location so designated by the Chief of Police for a serial number. If such bicycle has no serial number, a serial number shall be stamped on the frame of such bicycle by any qualified mechanic of a bicycle store or shop so designated by the Chief of Police.

(10) PARENTAL VIOLATION. It shall be unlawful for any parent, guardian or person having legal custody of a child under the age of 18 years to have such child fail to have his bicycle registered as hereinbefore provided or to allow such child under 18 years of age to violate any of the provisions of this section after such parent, guardian or person having legal custody of such child has been warned as hereinafter provided.

(11) WARNING. The first time a child is detained by a law enforcement officer for violation of any of the provisions of this section, his parent, guardian or person having such legal custody shall be advised as to the provisions of this section and further advised that

any violation of this section occurring thereafter by this child or any other child under his care or custody shall result in a penalty being imposed as hereinafter provided.

(12) **PENALTIES.** Any person who shall violate any of the provisions of this section other than the provisions providing for warning of a parent, guardian or person having legal custody of a child under 18 years of age shall, upon conviction thereof, forfeit not more than \$10 together with the cost of prosecution, and in default of payment of the forfeiture and costs of prosecution, shall be imprisoned in the County Jail for not exceeding 10 days. Any minor 14 years of age or over may be prosecuted for any violation of this section pursuant to § 938.17, *Wis. Stats.*

Any parent, guardian or person having legal custody of a child under 18 years of age and who has been warned in the manner provided in sub. (11) above and who thereafter violates any of the provisions of this section shall forfeit not less than \$10 nor more than \$200 together with the cost of prosecution and in default of the payment of forfeiture and cost of prosecution, he shall be imprisoned in the County Jail until such forfeiture and costs of prosecution are paid, but not exceeding 90 days.

9.09 PENALTY. Any person who shall violate any provisions of this chapter shall be subject to a penalty as provided in sec. 20.04 of this Code, in addition to the specific penalties provided in this chapter. A separate offense shall be deemed committed on each day on which a violation of this chapter occurs or continues.

9.10 PAYMENT OF OUTSTANDING OBLIGATIONS.

(1) No license or permit required under this Chapter or under any other provision of this Code may be issued until the Village Finance Director has certified that all delinquent payments owed by the applicant to the Village have been made. Payments shall not be deemed delinquent if they are the subject of a pending appeal.

[Cr. 00-20, Eff. 6-5-00; Am. 22-26, Eff. 12-21-22]

(2) Required payments include all personal property taxes, room taxes, special assessments, special charges, forfeitures, fines, judgments or debts owing to the Village.

[Cr. 00-20, Eff. 6-5-00; Am. 22-26, Eff. 12-21-22]

(3) The Finance Director shall inform the Village Clerk of the nature and amount of any delinquent obligations owed by the applicant. The Clerk shall withhold issuance of the license or permit and promptly notify the applicant of the basis for the debt and the amount that is overdue.

[Cr. 00-20, Eff. 6-5-00; Am. 22-26, Eff. 12-21-22]

(4) Any applicant aggrieved by a refusal to issue a license under this section may appeal the determination within 30 days of notice of such refusal by paying the amount claimed due and owing and filing a notice of appeal with the Administrative Review Appeals Board under Chapter 17. The notice of appeal shall state the basis for the appeal and specify the alleged error in the Village Finance Director's determination. The board shall not have the authority to review any decision that created the underlying obligation at issue unless such decision is within the jurisdiction of the board under Chapter 17 and a timely appeal has been filed.

[Cr. 00-20, Eff. 6-5-00; Am. 22-26, Eff. 12-21-22]

(5) Any amount determined to have been erroneously required paid shall be refunded promptly, together with interest at a rate of six percent (6%) per annum from the date the amount was paid to the Village to the date of the refund.

[Cr. 00-20, Eff. 6-5-00; Am. 22-26, Eff. 12-21-22]

9.11 REVERSED PAYMENTS.

(1) **EFFECT ON LICENSE OR PERMIT.** In the event any payment required for the issuance of a license or permit under any Village ordinance is subsequently dishonored, canceled, reversed or charged back to the Village, the payment shall be deemed not to have been made and the application fee shall be deemed a delinquent obligation under §9.10. The Clerk shall promptly notify the licensee or permittee of the delinquency and that unless the delinquent amount, including any fee due under §2.10, is paid in cash or certified funds within 5 days from the date of the notice, the license or permit is subject to revocation. If such payment is not timely paid, the Clerk shall notify the Village Attorney who shall initiate or direct the proceedings for revocation of the license or permit. Revocation of the license or permit shall not preclude any action for enforcement of §10.943.24 or 10.943.41 or any other ordinance, nor an action for the remedies available under §943.245, Wis. Stats.

[Cr. 22-26, Eff. 12-21-22]

(2) **ADMINISTRATIVE SUSPENSION.** In addition to the remedies provided in sec. (1), the Village Clerk may immediately suspend any license or permit pending the payment of the delinquent amount. The suspension shall be effective upon notice by the Clerk to the license or permit holder and shall terminate upon payment of the delinquent amount. This paragraph shall not apply to an alcohol beverage license governed by §125.12, Wis. Stats.

[Cr. 22-26, Eff. 12-21-22]

(3) **FUTURE APPLICATIONS.** The Clerk may require that any person whose payment of an application fee has been dishonored, canceled reversed or charged back to the Village under par. (a) within the previous five (5) years to make payment for new licenses, permits or renewal in cash or certified funds.

[Cr. 22-26, Eff. 12-21-22]

CHAPTER 10

ORDERLY CONDUCT

10.01	Offenses Against State Laws Subject to Forfeiture.....	10-1
10.02	Offenses Endangering Public Safety	10-3
10.03	Offenses Endangering Public Peace and Good Order	10-4
10.04	Offenses Endangering Public Morals and Decency	10-14
10.05	Offenses Endangering Public and Private Property.....	10-15
10.06	Curfew	10-16
10.07	Enforcement of Violations of this Code.....	10-17
10.08	[Repealed 15-12, Eff. 03-13-15]	10-18
10.09	Penalty	10-18
10.20	[Repealed 16-46, Eff. 11-24-16]	10-18
10.21	[Repealed 16-46, Eff. 11-24-16]	10-18
10.22	[Repealed 16-46, Eff. 11-24-16]	10-18
10.225	[Repealed 16-46, Eff. 11-24-16]	10-18
10.23	[Repealed 16-46, Eff. 11-24-16]	10-18
10.24	Penalty For Possession of Drug Paraphernalia By A Juvenile	10-18
10.25	Disposition of Juvenile Adjudged to Have Violated An Ordinance.....	10-18
10.26	Dispositional Orders	10-20
10.27	Sanctions for Violation of Order	10-20
10.28	Parental Responsibility for Repeat Offenses	10-21
	[Cr. 16-42, Eff. 11-11-16]	

10.01 OFFENSES AGAINST STATE LAWS SUBJECT TO FORFEITURE. The following statutes following the prefix 10 defining offenses against the peace and good order of the State are adopted by referenced to define offenses against the peace and good order of the municipality provided the penalty for commission of such offenses hereunder shall be limited to a forfeiture imposed under sec. 20.04 of this Code.

- 10.939.22 Words and Phrases Defined
- 10.940.19(1) Battery
- 10.940.20 Battery: Special Circumstances
- 10.941.01 Negligent Operation of a Vehicle
- 10.941.10 Negligent Handling of Burning Material
- 10.941.12 Interfering With Fire Fighting
- 10.941.13 False Alarms
- 10.941.20 Endangering Safety by Use of Dangerous Weapon
- 10.941.23 Carrying Concealed Weapon
- 10.941.237 Carrying Handgun where Alcohol Beverages are Sold and Consumed.
- 10.941.35 Emergency Telephone Calls
- 10.941.36 Fraudulent Tapping of Electric Wires or Gas or Water Meters or Pipes
- 10.942.10 Use of a Drone
- 10.943.01(1) Damage to Property
- 10.943.06 Molotov Cocktails
- 10.943.07 Criminal Damage to Railroads
- 10.943.11 Entry into Locked Vehicle
- 10.943.125 Entry into Locked Coin Box
- 10.943.13 Trespass to Land

10.943.14	Criminal Trespass to Dwellings
10.943.20	Theft
10.943.21	Fraud on Hotel or Restaurant Keeper or Taxicab Operator
10.943.23	Operating Vehicle Without Owner's Consent
10.943.24	Issue of Worthless Check
10.943.34	Receiving Stolen Property
10.943.37	Alteration of Property Identification Marks
10.943.41	Financial Transaction Card Crimes
10.943.45	Theft of Telecommunications Service
10.943.50	Retail Theft
10.944.20	Lewd and Lascivious Behavior
10.944.21	Obscene Material or Performance
10.944.23	Making Lewd, Obscene or Indecent Drawings
10.944.30	Prostitution
10.944.31	Patronizing Prostitutes
10.944.33	Pandering
10.944.34	Keeping Place of Prostitution
10.945.01	Definitions [Relating to Gambling]
10.945.02	Gambling
10.945.03	Commercial Gambling
10.945.04	Permitting Premises to be Used for Commercial Gambling
10.946.40	Refusing to Aid Officer
10.946.41	Resisting or Obstructing Officer
10.946.42	Escape
10.946.44	Assisting or Permitting Escape
10.946.46	Encouraging Violation of Probation, Extended Supervision or Parole
10.946.49	Bail Jumping
10.946.65	Obstructing Justice
10.946.69	Falsely Assuming to Act as a Public Officer or Employee or a Utility Employee
10.946.70	Impersonating Peace Officers
10.946.72	Tampering with Public Records and Notices
10.946.73	Penalty for Violating Laws Governing State or County Institutions
10.946.75	Denial of Right of Counsel
10.947.01	Disorderly Conduct
10.947.012	Unlawful Use of Telephone
10.047.0125	Unlawful Use of Computerized Communication Systems
10.947.013	Harassment.
10.947.015	Bomb Scares
10.947.06	Unlawful Assemblies and Their Suppression
10.948.51	Hazing
10.948.60(2)(a)	Possession of Dangerous Weapon by Person Under 18.
10.948.63	Receiving Property From a Child
10.951.02	Mistreating Animals
10.951.03	Dognapping and Catnapping
10.951.04	Leading Animal From Motor Vehicle
10.951.05	Transportation of Animals
10.951.06	Use of Poisonous and Controlled Substances
10.951.07	Use of Certain Devices Prohibited
10.951.08	Instigating Fights Between Animals
10.951.09	Shooting at Caged or Staked Animals

- 10.951.10 Sale of Baby Rabbits, Chicks and Other Fowl
10.951.11 Artificially Colored Animals; Sale
10.951.13 Providing Proper Food and Drink to Confined Animals
10.951.14 Providing Proper Shelter
10.951.15 Abandoning Animals
- [Am. 11-33, Eff. 10-28-11; Am. 14-25, Eff. 7-25-14; Am. 15-19, Eff. 05-01-15; Am. 16-42, Eff. 11-11-16]

10.02 OFFENSES ENDANGERING PUBLIC SAFETY.

[Am. 14-01, Eff. 1-17-14; Repealed and Replaced 17-06, Eff. 03-17-17]

(1) FIREARMS AND OTHER DANGEROUS WEAPONS.

(a) Discharging Firearms and Other Weapons Prohibited. Except as provided in pars. (b) – (d) or in subs. (2) and (3), no person, except a city, village, county, state or federal law enforcement officer or U.S. armed forces or military personnel acting in such capacity, shall fire or discharge any firearm, spring or air gun, bow, crossbow, blowgun, punt gun, electric weapon or other weapon within the Village.

(b) Hunting with Bows or Crossbows. Notwithstanding par. (a), the discharge of a bolt or arrow from a bow or cross-bow is permitted for hunting of wild animals in accordance with all applicable state regulations, except that no person shall:

1. hunt within 100 yards of a building used for human occupancy that is located on lands not owned by such person, unless the owner of the land on which the building is located has given such person permission to hunt within a specified distance of the building.
2. discharge an arrow or bolt other than toward the ground.
3. hunt on any land owned by, or leased to, the Village.

(c) Shooting Ranges. Paragraph (a) shall not be construed to prevent the maintenance and use of duly supervised rifle, pistol or archery ranges or shooting galleries if expressly permitted by the Zoning Code or exempted from zoning regulations by §895.527(4) or (5), Wis. Stats.

(d) Privileged Use of Firearms. Paragraph (a) shall not be construed to prohibit the discharge of a firearm in circumstances where the use of such weapon is authorized under §66.0409(3)(b), Wis. Stats.

(2) URBAN WILDLIFE CONTROL. Any of the regulations contained in subsections (1)(a) or (b) may be waived by the Village Board as they apply to any person while engaged in a program authorized by the Board to control populations of deer or other wildlife within the Village. No such waiver shall be effective unless reflected in the minutes of the Board or otherwise set forth in writing by the Village Board or its designee.

(3) MEMORIAL CEREMONIES. The prohibition contained in subsection (1)(a) may be waived by the Chief of Police with respect to the discharge of firearms by a military or quasi-military honor guard or similar group as a customary part of a memorial service honoring current or former military, law enforcement, emergency services or other personnel for the service rendered for the protection of the public. A waiver granted under this subsection shall not allow the discharge of any firearm loaded other than with a blank

cartridge or shell that does not propel any solid object other than a paper or plastic wad and gunpowder residue.

(4) OPEN CISTERNS, WELLS, OR OTHER DANGEROUS EXCAVATIONS PROHIBITED. No person shall cause, permit or maintain on any premises owned or occupied by such person any open cisterns, cesspools, wells, excavations or other dangerous openings. All such places shall be filled, securely covered or fenced in such manner as to prevent injury to any person and any cover shall be of a design, size and weight that the same cannot be removed by small children.

(5) ABANDONED OR UNATTACHED REFRIGERATORS, ETC., PROHIBITED. No person shall leave or permit to remain outside of any dwelling, building or other secured structure or within any unoccupied or abandoned building, dwelling or other structure owned or controlled by such person, in a place accessible to children, any abandoned, unattended or discarded refrigerator or other container which has an airtight door or lid, snap lock or other locking device without first removing said door or lid, snap lock or other locking device from said refrigerator or container unless such container is displayed for sale on the premises of the owner and is securely locked or fastened.

10.03 OFFENSES ENDANGERING PUBLIC PEACE AND GOOD ORDER.

(1) DEFECATION AND URINATION IN PUBLIC PROHIBITED. No person shall defecate or urinate upon any sidewalk, street, alley, public parking lot, park, playground, cemetery or other public area, except in designed sanitary facility, or upon private property in open view of the public.

[Am. 12-07, Eff. 5-11-12]

(2) DISORDERLY CONDUCT WITH MOTOR VEHICLE.

(a) No person shall, on public or private property located within the Village, by or through the use of a motor vehicle, motorcycle, snowmobile or mini-bike, under circumstances which tend to cause or provoke a disturbance or annoy one or more person, engage in violent abusive, unreasonably loud or otherwise disorderly conduct, including but not limited to the unnecessary, deliberate or intentional spinning of wheels, squealing of tires, revving of the engine, blowing the horn, causing the engine to backfire, or causing the vehicle while commencing to move or in motion to raise one or more of its wheels off the ground.

(b) Any person who shall violate this subsection shall, upon conviction, be subject to a forfeiture as provided in sec. 20.04 of this Code.

(3) LOITERING OR PROWLING PROHIBITED. No person shall loiter or prowl in a place, at a time or in a manner not usual for law abiding individuals, under circumstances that warrant alarm for the safety of persons or property in the vicinity. Among the circumstances which may be considered in determining whether such alarm is warranted is the fact that the actor takes flight upon himself under the circumstances which leads the officer to believe a crime has been or will be committed, or manifestly endeavors to conceal himself or any object. Unless flight by the actor or other circumstances makes it impracticable, a police or peace officer shall, prior to any arrest for an offense under this section, afford the actor an opportunity to dispel any alarm which would otherwise be warranted by requesting him to identify himself and explain his presence and conduct. No

person shall be convicted of an offense under this subsection if the police or peace officer did not comply with the preceding sentence or if it appears at trial that the explanation given by the actor was true, and if believed by the police or peace officer at the time, would have dispelled the alarm.

(4) LOITERING IN SCHOOL OR IN SCHOOL AREAS PROHIBITED.

(a) No person not in official attendance or on official school business shall enter into, congregate, loiter, wander, stroll, stand or play in any school building parking lot or in or about any playground area adjacent thereto within the Village between 7:30 A.M. and 4:30 P.M. on official school days.

(b) All entrances to the school buildings shall be posted with a notice stating "Entry Into School Building by Unauthorized Persons Prohibited." All school grounds shall be posted with a notice stating "Entry Upon School Grounds by Unauthorized Persons Prohibited."

(5) OBSTRUCTING STREETS AND SIDEWALKS PROHIBITED. No person shall stand, sit, loaf or loiter or engage in any sport or exercise on any public street, sidewalk, bridge or public ground within the Village in such a manner as to prevent or obstruct the free passage of pedestrian or vehicular traffic thereon or to prevent or hinder free ingress or egress to or from any place of business or amusement, church, public hall or meeting place.

(6) ALCOHOL BEVERAGE REGULATIONS.

(a) The following state statutes are adopted and made part of this municipal code:

1. §125.07(1)(a), *Wis. Stats.* (Dispensing Alcohol Beverages to Underage Persons).
2. §125.07(3)(a), *Wis. Stats.* (Underage Person Presence at Place of Sale).
3. §125.07(4)(a), (b), (bg) and (bm), *Wis. Stats.* (Underage Persons Violations).
4. §125.085 (3)(b), *Wis. Stats.* (Proof of Age).
5. §125.09(2), *Wis. Stats.* (Alcohol on School Grounds).

Any future amendments, revisions or modifications of the statutes incorporated herein by reference are intended to be made part of this code. The descriptions in parentheses above are for reference only and do not limit any portion of the adopted state statutes.

(b) The following penalties shall apply for violations of par. (a) above:

1. For violations of §125.07(1)(a), *Wis. Stats.*, a forfeiture of not more than \$500 for first and second violations. If the person has committed 2 or more previous violations within 30 months of the violation, a forfeiture of not more than \$1,000. In addition, a court shall suspend any license or permit issued under sec. 9.01 of this Code as required under §125.07(1)(b) 3, *Wis. Stats.*
2. For violations of §125.07(3)(a), *Wis. Stats.*, a forfeiture and penalties as provided under §125.07(3)(b), *Wis. Stats.*
3. For violations of §125.07(4)(a), a forfeiture and penalties as provided under §125.07(4)(bs), *Wis. Stats.*

4. For violations of §125.07(4)(b), a forfeiture and penalties as provided under §125.07(4)(c), *Wis. Stats.*
5. For violations of §125.085 (3)(b), *Wis. Stats.*, a forfeiture and penalties as provided under §125.085 (3)(bd), *Wis. Stats.*
6. For violations of §125.09(2), *Wis. Stats.*, a forfeiture and penalties as provided under §125.09(2)(d), *Wis. Stats.*

(c) Defense of Sellers. In determining whether or not a licensee or permittee has violated §125.07(1)(a) or 3(a), *Wis. Stats.*, as adopted in this municipal code, all relevant circumstances surrounding the presence of the underage person or the procuring, selling, dispensing or giving away of alcohol beverages may be considered, including any circumstances under 1-4 below. In addition, proof of all of the following facts by a seller of alcohol beverages to an underage person is a defense to any prosecution for a violation of this section.

1. That the purchaser falsely represented that he or she had attained the legal drinking age.
2. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the legal drinking age.
3. That the sale was made in good faith and in reliance on the representation and appearance of the purchaser in the belief that the purchaser had attained the legal drinking age.
4. That the underage person supported the representation under 1., above with documentation that he or she had attained the legal drinking age.

(d) Book Kept by Licensee. Every retail alcohol beverage licensee or permittee may keep a book for the purposes of paragraph (c) above. The licensee or permittee or his or her employee may require any of the following persons to sign the book:

1. A person who has shown documentary proof that he or she has attained the legal drinking age, if the person's age is in question.
2. A person who alleges that he or she is the underage person's parent, guardian or spouse and that he or she has attained the legal drinking age, if the licensee or permittee or his or her employee suspects that he or she is not the underage person's parent, guardian or spouse or that he or she has not attained the legal drinking age.

The book may show the date of the purchase of alcohol beverages, the identification used to establish that a person is an underage person's parent, guardian or spouse and has attained the legal drinking age, the address of the purchaser and the purchaser's signature.

(e) Drinking in Public Places.

1. Regulations. Except as provided in subpar. 2. of this paragraph below, the drinking of any alcohol beverages or the carrying of any open container which contains an alcohol beverage, is prohibited in the following places:

- a. On private property without the owner's consent.
 - b. On any street, roadway, alley, parking lot or sidewalk in the Village.
 - c. On any public property in the Village.
2. Exceptions. The prohibition relating to the drinking of fermented malt beverages on any street, public place or other public area within the Village, as provided in subpar. 1. above, shall not apply to the following.
 - a. Any organization which has been issued a Class "B" fermented malt beverage picnic license pursuant to sec. 9.01 of this Code.
 - b. Persons using the Village parks, except that no drinking of fermented malt beverages is permitted in a Village park between the hours of 11:00 P.M. and 10:00 A.M.
 3. Penalty. Any person who violates sub (e) 1.,above, shall, upon conviction, be subject to a forfeiture as provided in sec. 20.04 of this Code.

[Am. 93-12, Eff. 4-9-93; Am. 16-46, Eff. 11-24-16]

(7) DRUG PROHIBITIONS.

(a) Definitions. As used in this subsection:

1. "Marijuana" means all parts of the plant cannabis sativa L., whether growing or not, the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin.
2. "Drug paraphernalia" shall mean any item defined by §961.571, *Wis. Stats.*
3. "Synthetic marijuana" means a controlled substance specified in §961.14(4)(tb) to (ty), *Wis. Stats.*

(b) Possession Prohibited.

1. Marijuana. Except as provided in paragraph (d) hereof, it shall be unlawful for any person to possess marijuana. Pursuant to §66.0107(1)(bm), *Wis. Stats.*, prosecution for a violation of this paragraph shall be limited to those violations which involve possession of not more than 25 grams of a prohibited substance by a person who has not previously been convicted in this state for possession of marijuana.
2. Drug Paraphernalia. Except as provided in paragraph (d) hereof, no person may use, or possess with the primary intent to use, drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, conceal, inject, ingest, ingest, inhale, or otherwise introduce into the human body a controlled substance in violation of Chapter 961 of the Wisconsin Statutes.

3. Synthetic Marijuana. It shall be unlawful for any person to possess synthetic marijuana. Pursuant to §66.0107(1)(bn), *Wis. Stats.*, prosecution for a violation of this paragraph shall be limited to those violations committed by a person who has not previously been convicted in this state for possession of a controlled substance.

(c) Penalties. Any adult convicted of a violation of this subsection shall be assessed a forfeiture of not less than \$50.00 nor more than \$500.00.

(d) Exception. Subparagraphs (b) 1. and 2. of this subsection shall not apply to a person who has obtained or possesses marijuana directly from or pursuant to a valid prescription or order of a practitioner while acting in the course of his or her professional practice. The burden of proof to prove such exception shall be on the person claiming it. As used in this paragraph, "practitioner" shall mean those persons defined by §961.01(19), *Wis. Stats.*

[Am. 93-24, Eff. 6-11-93; Am. 11-34; Eff. 11-25-11]

(7m) PURCHASE OR POSSESSION OF TOBACCO PRODUCT BY MINORS PROHIBITED.

[Cr. 92-33, Eff. 11-2-92; Am. 14-24, Eff. 7-25-14]

(a) Except as provided in paragraph (b) and (c), no person under the age of 18 years may do any of the following:

1. Purchase, attempt to purchase, or possess any cigarette, nicotine product, or tobacco product.
2. Falsely represent his or her age for the purpose of receiving any cigarette, nicotine product, or tobacco product.

[Am. 14-24, Eff. 7-25-14]

(b) A person under the age of 18 years may purchase or possess cigarettes, nicotine products, or tobacco products for the sole purpose of resale in the course of employment during his or her working hours if employed by a retailer.

[Am. 14-24, Eff. 7-25-14]

(c) A person under 18 years of age, but not under 15 years of age, may purchase, attempt to purchase or possess cigarettes, nicotine products, or tobacco products in the course of his or her participation in an investigation under §254.916, *Wis. Stats.*, that is conducted in accordance with §254.916 (3), *Wis. Stats.*

[Cr. 14-24, Eff. 7-25-14]

(d) A law enforcement officer shall seize any cigarette, nicotine product, or tobacco product that has been sold to and is in the possession of a person under 18 years of age.
[Renumbered and am. 14-24, Eff. 7-25-14]

(e) The definitions contained in §254.911, *Wis. Stats.*, shall apply to this subsection.
[Renumbered and am. 14-24, Eff. 7-25-14]

(f) Whoever is convicted of violating this section is subject to a maximum forfeiture of: \$25.00 if the person has not been convicted of a violation occurring in the preceding twelve months; \$40.00 if the person has been convicted of one violation occurring in the

preceding twelve months; or \$50.00 if the person has been convicted of two or more violations occurring in the preceding twelve months.

[Par. (e) Cr. 95-6, Eff. 3-20-95; Renumbered 14-24, Eff. 7-25-14]

(7n) RESTRICTIONS ON SALE OR GIFT OF CIGARETTES, NICOTINE PRODUCTS, OR TOBACCO PRODUCTS.

[Am. 14-24, Eff. 7-25-14]

(a) Definitions. For the purpose of this section, the definitions found in §134.66(1), *Wis. Stats.*, shall apply.

(b) Restrictions.

1. No retailer, manufacturer, distributor, jobber, subjobber, or his or her employee or agent may sell or give cigarettes, nicotine products, or tobacco products to any person under the age of 18, except as provided in sub. 10.03(7m)(b) of this Code.

[Am. 14-24, Eff. 7-25-14]

2. No retailer may sell cigarettes in a form other than as a package or container on which a stamp is affixed under §139.32(1), *Wis. Stats.*
3. Every retailer shall post a sign in areas within his or her premises where cigarettes or tobacco products are sold to consumers stating that the sale of any cigarette or tobacco product to a person under the age of 18 is unlawful under this section and sec. 10.03(7m) of this Code.

(c) Vending Machine Restrictions.

1. Every vending machine operator shall attach a notice in a conspicuous place on the front of his or her vending machines stating that the purchase of any cigarette or tobacco product by a person under the age of 18 is unlawful under Sec. 10.03(7m) of this Code and that the purchaser is subject to a forfeiture not to exceed \$25.
2. No retailer may keep a vending machine in any public place that is open to persons under the age of 18 unless all of the following apply:
 - a. The vending machine is in a place where it is ordinarily in the immediate vicinity, plain view and control of an employee.
 - b. The vending machine is in a place where it is inaccessible to the public when the premises are closed.
3. The person who ultimately controls, governs or directs the activities within the premises where the vending machine is located shall ensure that an employee of the retailer remains in the immediate vicinity, plain view and control of the vending machine whenever the premises are open.
4. Notwithstanding sub. (c)2 above, no retailer may place or keep a vending machine within 500 feet of a school.

(d) Defenses.

1. Proof of all the following facts by a retailer, manufacturer, distributor, jobber, subjobber, or their employee or agent who sells cigarettes, nicotine products, or tobacco products to a person under the age of 18 is a defense to any prosecution for a violation of sub. (b)1 above:
[Am. 14-24, Eff. 7-25-14]
 - a. That the purchaser falsely represented that she or he had attained the age of 18 and presented an identification card,
 - b. That the appearance of the purchaser was such that an ordinary and prudent person would believe that the purchaser had attained the age of 18, and
 - c. That the sale was made in good faith, in reasonable reliance on the identification card and appearance of the purchaser and in the belief that the purchaser had attained the age of 18.
2. A vending machine operator is not liable under sub. (b)1 for the purchase of cigarettes or tobacco products from his or her vending machine by a person under the age of 18 if the vending machine operator was unaware of the purchase.

(e) Penalties.

1. Whoever violates subsections (b)1-2 or (c)2-4 is subject to a forfeiture of:
 - a. Not more than \$500 if the person had not committed a previous violation within 12 months of the violation; or
 - b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.
2. A court shall suspend any license or permit issued under §134.65, *Wis. Stats.*, or sec. 9.02 of this Code, to a person for:
 - a. Not more than 3 days, if the court finds that the person committed a violation within 12 months after committing one previous violation;
 - b. Not less than 3 days nor more than 10 days, if the court finds that the person committed a violation within 12 months after committing 2 other violations; or
 - c. Not less than 15 days nor more than 30 days, if the court finds that the person committed a violation within 12 months after committing 3 or more other violations.
3. The court shall promptly mail notice of a suspension under sub. (e)2 to the Alcohol and Tobacco Enforcement Section of the Department of Revenue.

4. Whoever violates sub. (b)3 or (c)1 shall forfeit not more than \$25.
[Am. 94-30, Eff. 07-05-94]

(7p) RESTRICTIONS ON E-CIGARETTES.
[Cr. 19-10, Eff. 6-28-19]

(a) As used in this subsection, "e-cigarette" means any electronic delivery product composed of a mouthpiece, heating element, battery and/or electronic circuits that provides a vapor of liquid to the user, or relies on vaporization of any liquid or solid to then be inhaled by the user. This term includes such devices whether they are manufactured as e-cigarettes, electronic cigarettes, personal vaporizers, e-cigars, e-pipes or under any other product name. The term does not include asthma inhalers or other medical devices prescribed by a medical provider.

(b) Possession of E-Cigarettes by Minors Prohibited.

Except as provided in paragraph (d), no person under the age of 18 years may do any of the following:

1. Purchase, attempt to purchase, or possess any e-cigarette.
2. Falsely represent his or her age for the purpose of receiving any e-cigarette.

(c) Sale or Transfer of E-Cigarettes to Minors Prohibited.

Except as provided in paragraph (d), no person or retailer may sell, give or transfer any e-cigarette to any person under the age of 18 years.

(d) A person under the age of 18 years may possess e-cigarettes for the sole purpose of resale in the course of employment during his or her working hours.

(e) Penalties.

1. Whoever is convicted of violating paragraph (b) of this subsection is subject to a forfeiture of:
 - a. Not more than \$25.00 if the person has not been convicted of a violation occurring in the preceding 12 months; or
 - b. Not more than \$40.00 if the person has been convicted of one violation occurring in the preceding 12 months; or
 - c. Not more than \$50.00 if the person has been convicted of two or more violations occurring in the preceding 12 months.
2. Whoever is convicted of violating paragraph (c) of this subsection is subject to a forfeiture of:
 - a. Not more than \$500 if the person has not committed a previous violation with 12 months of the violation; or

- b. Not less than \$200 nor more than \$500 if the person has committed a previous violation within 12 months of the violation.

(8) LOUD AND UNNECESSARY NOISE PROHIBITED.

(a) Loud and Unreasonable Noise Prohibited. No person shall use within the Village any equipment for the production or amplification of sound so as to unreasonably cause such sound to be transmitted into a public street, alley, or public place unless a permit has been granted, which states the time and place of the event, by the Chief of Police. It shall be unlawful for any person to use or operate, or to cause to be used or operated any mechanical device, machine, apparatus or instrument for production or amplification of the human voice or any sound or noise in any public or private place in such manner that the peace and good order of the neighborhood are unreasonably disturbed or annoyed.

[Cr. 95-22, Eff. 05-15-95]

(b) Types of Loud and Unreasonable Noises. The following acts are declared to be loud, disturbing and unreasonable noises in violation of this section, but this enumeration shall not be deemed to be exclusive:

1. Horns, signaling devices. The sounding of any horn or signaling device on any automobile, motorcycle or other vehicle on any street or public place in the Village for longer than three (3) seconds in any period of one (1) minute or less, except as a danger warning; the creation of any unreasonable loud or harsh sound by means of any signaling device and the sounding of any plainly audible device for an unnecessary and unreasonable period of time.
2. Radios, phonographs, similar devices. The using, operating or permitting to be played, used or operated any radio receiving set, musical instrument, phonograph or other machine or device for the production or reproduction of sound in a loud and unreasonable manner. The operation of any set, instrument, phonograph, machine or device between the hours of 10:00 p.m. and 7:00 a.m. in a manner as to be plainly audible beyond the physical confines of the building, apartment or vehicle in which it is located shall be *prima facie* evidence of a violation of this section.
3. Loudspeakers, amplifiers for advertising. The using, operating or permitting to be played, used or operated of any radio receiving set, musical instrument, phonograph, loudspeaker, sound amplifier or other machine or device for the production or reproduction of sound which is cast upon the public streets for the purpose of commercial advertising or attracting attention of the public to any building or structure. Announcements over loudspeakers can only be made by the announcer in person and without the aid of any mechanical device.
4. Animals, birds. The keeping of any animal or bird which causes frequent or long continued unreasonable noise.
5. Exhausts. The discharge into the open air of the exhaust of any internal combustion engine or motor boat except through a muffler or other device which will effectively prevent unnecessary loud or explosive noises therefrom.

6. Construction Activities. The operation of any construction equipment, including but not necessarily limited to bulldozers, backhoes, pneumatic hammers, pile drivers, or similar equipment attended by loud or unusual noise other than between the hours of 7:00 a.m. and 10:00 p.m. Monday through Saturday and between the hours of 9:00 a.m. and 6:00 p.m. Sunday; provided, however, that the Director of Public Services shall have the authority, upon determining that the loss or inconvenience caused by such restriction would be extraordinary and of such nature to warrant special consideration, to grant permission for a specified period within which such work and operation may take place during other than the hours specified. [Repl. & Recr. 95-51, Eff. 11-10-95; Am. 15-33, Eff. 07-07-15]
7. Schools and churches. The creation of any excessive noise on any street adjacent to any school, institution of learning, church while in use, which unreasonably interferes with the normal operation of that institution. No person, while on public or private grounds adjacent to any building, or while within any building in which a school or any class thereof is in session, shall willfully make or assist in the making of any noise or diversion which disturbs or tends to unreasonably disturb the peace or good order and operation of such school session or class thereof.
[Cr. 95-22, Eff. 05-15-95]
8. Exceptions. The provisions of this section shall not apply to:
 - a. Any vehicle of the Village while engaged in necessary public business.
 - b. Excavations or repairs of public construction by or on the behalf of any government entity or public utility when the public welfare renders it impracticable to perform such work during the hours specified for such work.
 - c. The reasonable use of amplifiers or loudspeakers in the course of public addresses which are noncommercial in nature.
[Am. 95-51, Eff. 11-10-95]

(c) **Permits for Amplifying Devices.**

[Cr. 95-22, Eff. 05-15-95]

1. Permit Required. The use of loudspeakers or amplifying devices in a public place of the Village is prohibited unless the party desiring to use such loudspeaker or amplifying device first obtains a permit from the Chief of Police, except a permit for the use of such equipment in Village parks shall be obtained from the Director of Recreation and Community Enrichment pursuant to sec. 16.01(3)(d).
[Am. 15-02, Eff. 1-16-15; Am. 21-01; Eff. 2-12-21]
2. Grounds or Reasons for Denial or Allowance. The Chief of Police or Director of Recreation and Community Enrichment issuing a permit shall have the authority to revoke such permit when he or she determines such loudspeaker or amplifying device is becoming a nuisance because of the volume, the method in which it is being used or the location in which it is being operated. [Am. 21-01; Eff. 2-12-21]

(9) INTERFERENCE WITH RADIO AND TELEVISION RECEPTION. No person shall operate or cause to be operated, any machine, device, apparatus or instrument of any kind whatsoever within the Village which shall cause reasonably preventable electrical interference with radio or television reception within said municipal limits. However, x-ray pictures, examination or electrical treatments under direct instructions of any duly registered physician, chiropractor or dentist may be made at any time if the machine or apparatus used therefor is properly equipped to avoid all unnecessary or reasonably preventable interference and is not negligently operated.

(10) LOUDSPEAKERS REGULATED.

(a) Prohibited. No person shall operate on any street or alley or in any park or other public place in the Village any loudspeaker or other mechanical device for amplifying sound or any mechanical device for reproduction sound, or shall create any excessive noise or disturbance by voice or instrument of any kind.

(b) Exceptions. The provisions of par. (a) shall not apply to patriotic observance of Memorial Day, Flag Day, the Fourth of July or Veterans' Day held in public places in the Village by the American Legion or other similar patriotic organizations, or to the annual celebration of the Christmas season held in the month of December by a nonsectarian association or group of persons, provided that no advertising for private purposes is done on any such occasion.

(11) [Repl. 07-06, Eff. 02-23-07]

(12) [Repl. 07-06, Eff. 02-23-07]

(13) STORAGE OF JUNK, ETC., REGULATED. No person shall store junked or discarded property, including automobiles, automobile parts, trailers or trailer parts, trucks, tractors, refrigerators, furnaces, washing machines, stoves, machinery or machinery parts, wood, bricks, cement blocks or other unsightly debris which substantially depreciates property values in the neighborhood except in an enclosure which houses such property from public view, or upon license issued by the Village Board. The Building Inspector or the Chief of Police may require, by written order, any premises violating this subsection to be put in compliance within the time specified in such order, and if the order is not complied with, may have the premises put in compliance and the cost thereof assessed as a special tax against the property.

(14) ANNOYING TELEPHONE CALLS PROHIBITED. No person shall, within the Village, make a telephone call, whether or not conversation ensues, with the intention to annoy another.

10.04 OFFENSES ENDANGERING PUBLIC MORALS AND DECENCY.

(1) GAMBLING, LOTTERIES, FRAUDULENT DEVICES AND PRACTICES PROHIBITED. All forms of gambling, lotteries and fraudulent devices and practices are prohibited within the Village. Any peace officer or policeman of the Village is hereby authorized to seize anything devised solely for gambling or found in actual use for gambling within the Village and to dispose thereof after a judicial determination that said device was used solely for gambling or found in actual use for gambling.

(2) INDECENT CONDUCT AND LANGUAGE PROHIBITED. No person shall use any indecent, vile, profane or obscene language or conduct himself in any indecent, loud, lascivious or obscene manner within the Village.

10.05 OFFENSES ENDANGERING PUBLIC AND PRIVATE PROPERTY.

(1) DESTRUCTION OF PROPERTY PROHIBITED.

(a) No person shall willfully injure or intentionally deface, destroy or unlawfully remove, take or meddle with any property of any kind or nature belonging to the Village or its departments or to any private person without the consent of the owner or proper authority.

(b) Pursuant to §895.035, *Wis. Stats.*, the parents of an unemancipated minor shall be liable for the damage of property caused by the willful, malicious or wanton act of such child; such liability shall not exceed \$1,000.00.

(2) LITTERING PROHIBITED. No person shall place, throw, deposit or leave any glass, rubbish, waste or filth upon the streets, alleys, highways, public parks or other property of the Village or upon any private property not owned by him or into any body of water or navigable waterway within the Village. No person shall leave any brochure, leaflet, handbill, magazine, catalog, paper or other material, whether or not it contains any printed matter or other communication:

(a) unattended on public or private property of another in a manner that will allow the material to be carried by wind or otherwise result in litter;

(b) on any lawn, sidewalk, driveway, terrace, curb or other part of any private property except on a porch, in or affixed to the door of a structure, in a receptacle designed or intended for delivery of such materials or in the possession of a person lawfully on the property; or

(c) on or in any porch, door or receptacle if there is clearly posted by any person in charge of the premises on or within 12" of such porch, door or receptacle, a notice clearly prohibiting the placing of such materials thereon or therein. Such notice may prohibit specified types of materials or may affirmatively authorize the placing of only specified materials. Unless otherwise specified by the notice, the prohibition shall be deemed to apply to the placement of materials either in or on the porch, door or receptacle. A notice posted in accordance with this paragraph shall not apply to the placement of any material in a mailbox or other receptacle intended for deliveries of mail, by any employee of the U.S. Postal Service acting within the scope of such employment.

[Am. 08-02, Eff. 1-21-08]

(3) UNLAWFUL REMOVAL OF PROPERTY. No person shall take and carry away the property of another without the owner's consent. This offense shall include, but not be limited to, the operation of a vehicle, whether or not motorized, without the owner's consent.

10.06 CURFEW.

(1) CURFEW ESTABLISHED.

(a) Except as provided in sub. (2), it is unlawful for any person under the age of sixteen (16) years, or any person under the age of eighteen (18) years whose Wisconsin driver's license has been revoked or suspended, whether on foot or in or upon any conveyance be it driven or parked, to be upon or within the bounds of any street, highway, road, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground, yard, or place of amusement or entertainment, whether public or private, without the permission of the owner or lawful occupant thereof, between the hours of 10:00 p.m. and 6:00 a.m. Any person who violates this subsection will be subject to penalties in accordance with sec. 20.04.

[Am. 05-03, Eff. 1-6-05]

(b) Except as provided in sub. (2), it is unlawful for any person who is sixteen (16) or seventeen (17) years of age, whether on foot or in or upon any conveyance be it driven or parked, to be upon or within the bounds of any street, highway, road, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground, yard, or place of amusement or entertainment, whether public or private, without the permission of the owner or occupant thereof, between 11:00 p.m. and 6:00 a.m.

(c) Except as provided in sub. (2), or if the person is home schooled, it is unlawful for any person who is less than 18 years of age and who is both subject to compulsory school attendance and currently expelled or suspended from school, to be upon or within the bounds of any street, highway, road, sidewalk, curb, gutter, parking lot, alley, vacant lot, park, playground, yard, or place of amusement or entertainment, whether public or private, except the person's own residence, during times in which public school is in session.

[Par. (c) Cr. 12-04, Eff. 3-2-12]

(2) EXCEPTIONS. The prohibitions in subsection (1) of this section shall not apply to a minor who is:

(a) accompanied by his or her parent, guardian, or other adult person having legal custody of such minor;

(b) pursuing the duties of his or her employment, including direct travel between the minor's home and place of employment;

(c) traveling directly between his or her home and a school-sponsored or church-sponsored activity; or

(d) participating in, going to, or returning from, an activity involving the exercise of their rights protected under the First Amendment to the United States Constitution or any equivalent rights under the Wisconsin Constitution, including freedom of speech, the free exercise of religion, and the right of assembly.

(3) Unless flight by the child or other circumstances makes it impracticable, a law enforcement officer shall, prior to issuing a citation for an offense under this section, afford the child an opportunity to explain his or her reasons for being present in the public place. A law enforcement officer shall not issue a citation for an offense under this section unless the

officer reasonably believes that an offense has occurred, and that none of the exceptions provided in this section apply.

(4) Nothing in this section shall be construed to permit a child to unnecessarily loiter about the streets, alleys or public places or be in a parked motor vehicle on the public streets during the established curfew hours.

(5) RESPONSIBILITY OF PARENTS.

(a) It is unlawful for the parent, guardian, or other adult person having legal custody of a minor under the age of sixteen (16) years to permit, or by ineffective control to allow, such minor to violate sub. (1)(a) of this section. Any person who violates this subsection will be subject to penalties in accordance with sec. 20.04.

(b) No person shall be liable under this subsection for a violation committed by a minor if that person has notified that police department that his or her child is out after curfew and has requested assistance in locating the child before they are found by police violating this section.

(c) No person shall be liable under this subsection for a violation committed by a minor during any period when physical placement of such minor has been assigned exclusively to some other person by judgment or order of a court.

10.07 ENFORCEMENT OF VIOLATIONS OF THIS CODE.

(1) Except as otherwise provided by law, any action to collect a forfeiture or penalty for a violation of this Code may be commenced by the issuance of a citation pursuant to secs. 66.0113 and 800.02, *Wis. Stats.*

[Am. 92-43, Eff. 12-21-92]

(2) FORM OF CITATION. The form of the citation to be used shall be the Wisconsin Uniform Municipal Citation.

(3) SCHEDULE OF DEPOSITS.

(a) Establishment of Deposit Schedule. A schedule of cash deposits is established for use with citations issued for violations of Village ordinances and is set forth in sec. 20.08 of this Code.

[Am. 15-12, Eff. 03-13-15]

(b) Payment. Deposits shall be made in cash, money order or certified checks to the Municipal Court or the Chief of Police, who shall provide a receipt therefor.

(4) ISSUANCE OF CITATIONS. Citations for violations of this chapter may be issued as authorized by sec. 1.10 of this Code.

[Am. 92-43, Eff. 12-21-92; Am. 13-07, Eff. 4-3-13; Am. 14-13, Eff. 04-15-14]

(5) MISCELLANEOUS PROCEDURES. (a) §66.0113(3), *Wis. Stats.*, relating to violators' options and procedure on default, is hereby adopted and incorporated herein by reference.

[Am. 92-43, Eff. 12-21-92]

(6) NONEXCLUSIVITY.

(a) Other Ordinances. The adoption of this section does not preclude the Village Board from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or other matter.

(b) Other Remedies. The issuance of a citation hereunder shall not preclude the Village or any authorized officer from proceeding under any other section of this Code or law or by any other enforcement method to enforce any section of this Code, Village regulation or order.

10.08 [Reserved]

10.09 PENALTY. Any person who shall violate any provision of this chapter shall be subject to a penalty as provided in sec. 20.04 of this Code in addition to the specific penalties provided in this chapter.

10.20-10.23 [Reserved]

10.24 PENALTY FOR POSSESSION OF DRUG PARAPHERNALIA BY A JUVENILE.

(1) If the municipal court finds a juvenile committed a violation of sec. 10.03(7)(b)(2) of the DeForest Municipal Code, the court shall suspend or revoke the juvenile's operating privilege, as defined in §340.01(40), *Wis. Stats.*, for not less than 6 months nor more than 5 years and, in addition, shall order one of the following penalties:

(a) For a first violation, a forfeiture of not more than \$50.00 or the juvenile's participation in a supervised work program or other community service work under §938.34(5g) or both.

(b) For a violation committed within 12 months of a previous violation, a forfeiture of not more than \$100.00 or the juvenile's participation in a supervised work program or other community service work under §938.34(5g), *Wis. Stats.*, or both.

(c) For a violation committed within 12 months of 2 or more previous violations, a forfeiture of not more than \$500.00 or the juvenile's participation in a supervised work program or other community service work under §938.34(5g), *Wis. Stats.*, or both.

10.25 DISPOSITION OF JUVENILE ADJUDGED TO HAVE VIOLATED AN ORDINANCE. Except as otherwise provided in this chapter, if the municipal court finds that the juvenile violated an ordinance, the court shall enter an order making one or more of the following dispositions:

(1) Counsel the juvenile or the parent or guardian.

(2) Impose a forfeiture not to exceed the maximum forfeiture that may be imposed on an adult for committing that violation or, if the violation is only applicable to a juvenile, \$50.00. Any such order shall include a finding that the juvenile alone is financially able to

pay and shall allow up to 12 months for the payment. If a juvenile fails to pay the forfeiture, the court may suspend any fishing or hunting license issued under Chapter 29, *Wis. Stats.*, or suspend the juvenile's operating privilege as defined in §340.01(40), *Wis. Stats.*, for not less than 30 days nor more than 5 years.

(3) Order the juvenile to be placed in a teen court program, pursuant to section 26.04(1)(f) of the DeForest Municipal Code.

(4) Order the juvenile to participate in a supervised work program or other community service work under §938.34(5g), *Wis. Stats.*

(5) If the violation has resulted in damage to the property of another, or in actual physical injury to another excluding pain and suffering, the court may order the juvenile to make repairs of the damage to property or reasonable restitution for the damage or injury if the court, after taking into consideration the well-being and needs of the victim, considers it beneficial to the well-being and behavior of the juvenile. Any such order requiring payment for repairs or restitution shall include a finding that the juvenile alone is financially able to pay and may allow up to the date of the expiration of the order for the payment.

(6) If the violation is related to unsafe use of a boat, order the juvenile to attend a safety course under §30.74(1), *Wis. Stats.*

(7) If the violation is of Chapter 29, *Wis. Stats.*, suspension of the fishing or hunting license or licenses of the juvenile issued under that chapter for not more than one year or until the juvenile is 18 years of age, whichever occurs first.

(8) If the violation is related to the unsafe use of firearms, order the juvenile to attend a course under the hunter education and firearm safety program under §29.591, *Wis. Stats.*

(9) If the violation is one related to the use of snowmobiles, order the juvenile to attend a safety course under §350.055, *Wis. Stats.*

(10) If the violation is one related to the use of all-terrain vehicles, order the juvenile to enroll and participate in an all-terrain vehicle safety course.

(11) If the violation is related to the use or abuse of alcohol beverages or controlled substances, order the juvenile to do any of the following:

(a) Submit to an alcohol and other drug assessment that conforms to the criteria specified under §938.547(4), *Wis. Stats.*, and that is conducted by an approved treatment facility.

(b) Participate in an outpatient alcohol and other drug abuse treatment program if an assessment conducted under par. (a) recommends treatment.

(c) Participate in a court-approved pupil assistance program provided by the juvenile's school board or in a court-approved alcohol or other drug abuse education

program. The juvenile's participation in a court-approved pupil assistance program under this paragraph is subject to the approval of the juvenile's school board.

[Cr. 96-44, Eff. 11-22-96]

10.26 DISPOSITIONAL ORDERS. After ordering a penalty under secs. 10.20 through 10.24, the municipal court, with the agreement of the juvenile, may enter an additional order staying the execution of the penalty order and suspending or modifying the penalty imposed. The order under this paragraph shall require the juvenile to do any of the following:

(1) Submit to an alcohol and other drug abuse assessment that conforms to the criteria specified under §938.547(4), *Wis. Stats.*, and that is conducted by an approved treatment facility.

(2) Participate in an outpatient alcohol or other drug abuse treatment program at an approved treatment facility, if an alcohol or other drug abuse assessment conducted under subsection (1) recommends treatment.

(3) Participate in a court-approved pupil assistance program provided by the juvenile's school board or in a court-approved alcohol or other drug abuse education program. The juvenile's participation in a court-approved pupil assistance program under this subsection is subject to the approval of the juvenile's school board.

(4) Participate in a teen court program pursuant to sec. 26.04(1)(f) of this Code.

[Cr. 96-44, Eff. 11-22-96]

10.27 SANCTIONS FOR VIOLATION OF ORDER. If a juvenile who has violated a municipal ordinance violates a condition of a dispositional order imposed by the municipal court, the court may impose the following sanctions:

(1) Suspension of or limitation on the use of the juvenile's operating privilege, as defined under §340.01(40), *Wis. Stats.*, or of any approval issued under Chapter 29, *Wis. Stats.*, for a period of not more than 3 years.

(2) Order the juvenile detained in the juvenile's home or current residence for a period of not more than 30 days under rules of supervision specified in the order.

(3) Order the juvenile to perform not more than 25 hours of uncompensated participation in a supervised work program or other community service work under §938.34(5g), *Wis. Stats.*

(4) Petition the juvenile court to impose on the juvenile any of the following sanctions:

(a) Placement of the juvenile in a secure detention facility or juvenile portion of the county jail for not more than 10 days and the provision of educational services consistent with his or her current course of study during the period of placement.

(b) Detention in the juvenile's home or current residence to be monitored by an electronic monitoring system for a period of not more than 30 days.

[Cr. 96-44, Eff. 11-22-96]

10.28 PARENTAL RESPONSIBILITY FOR REPEAT OFFENSES.

[Cr. 16-42, Eff. 11-11-16]

(1) It shall be unlawful for any custodial parent or guardian of any unemancipated person under eighteen (18) years of age to allow or permit such person to act in a manner that would constitute a violation of any of the following state laws adopted under section 10.01 more than once within any ninety (90) day period:

- 10.947.01 Disorderly Conduct
- 10.947.012 Unlawful Use of a Telephone
- 10.947.0125 Unlawful Use of Computerized Communication System
- 10.947.013 Harassment
- 10.048.51 Hazing

(2) There is a rebuttable presumption that a custodial parent or guardian of any unemancipated person under eighteen (18) years of age permitted a violation contrary to the previous paragraph, if, prior to the violation, law enforcement provided the parent or guardian notice of previous conduct by the same un-emancipated person that would constitute a violation of any of the offenses listed in the previous paragraph within the prior ninety (90) days.

[Cr. 16-42, Eff. 11-11-16]

CHAPTER 11

PUBLIC NUISANCES

11.01	Public Nuisances Prohibited.....	11-1
11.02	Public Nuisance Defined	11-1
11.03	Public Nuisance Affecting Health.....	11-1
11.035	Illicit Discharges.....	11-2
11.04	Public Nuisance Offending Morals and Decency.....	11-5
11.05	Public Nuisances Affecting Peace and Safety	11-6
11.06	Dutch Elm Disease Control	11-7
11.07	[Reserved]	11-9
11.08	Abatement of Public Nuisances	11-9
11.09	Cost of Abatement	11-10
11.10	Junked Automobiles, Etc.	11-10
11.11	Penalty	11-12

11.01 PUBLIC NUISANCES PROHIBITED. No person shall erect, contrive, cause, continue, maintain or permit to exist any public nuisance within the Village.

11.02 PUBLIC NUISANCE DEFINED.

(1) A public nuisance is a thing, act, occupation, condition or use of property which shall continue for such length of time as to:

- (a) Substantially annoy, injury or endanger the comfort, health, repose or safety of the public.
- (b) In any way render the public insecure in life or in the use of property.
- (c) Greatly offend the public morals or decency.
- (d) Unlawfully and substantially interfere with, obstruct or tend to obstruct or render dangerous for passage any street, alley, highway, navigable body of water or other public way or the use or public property.

[Am. 93-39, Eff. 10-8-93]

(2) Notwithstanding any contrary provision in this Code, this Chapter shall not apply to prairie burning operations conducted in accordance with the provisions of sec. 16.03 hereof.

[Am. 93-39, Eff. 10-8-93]

11.03 PUBLIC NUISANCES AFFECTING HEALTH. The following acts, omissions, places, conditions and things are hereby specifically declared to be public health nuisances, but such enumeration shall not be construed to exclude other health nuisances coming within the definitions of sec. 11.02 above:

- (1) ADULTERATED FOOD. All decayed, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

(2) UNBURIED CARCASSES. Carcasses of animals, birds or fowl not intended for human consumption or foods which are not buried or otherwise disposed of in a sanitary manner within 24 hours after death.

(3) BREEDING PLACES FOR VERMIN, ETC. Accumulation of decayed animal or vegetable matter, trash, rubbish, rotting lumber, bedding, packing material, scrap metal or any material whatsoever in which flies, mosquitoes, disease-carrying insects, rats or other vermin may breed.

(4) STAGNANT WATER. All stagnant water in which mosquitoes, flies or other insects can multiply.

(5) GARBAGE CANS AND PLASTIC BAGS. Garbage cans and plastic bags which are not flytight.

(6) ANIMALS. All animals running at large.

(7) SMOKE AND FUMES. The escape of smoke, soot, cinders, noxious acids, fumes, gases, fly ash or industrial dust within the Village limits or within one mile therefrom in such quantities as to endanger the health of persons of ordinary sensibilities or to threaten or cause substantial injury to property.

(8) NOXIOUS WEEDS. All noxious weeds, as set forth under sec. 12.07 of this Code, and all other rank growth of vegetation, including, but not limited to, grass exceeding twelve inches (12") in height.

[Am. 16-15, Eff. 6-17-16]

(9) WATER POLLUTION. The pollution of any public well or cistern, stream, lake, canal or other body of water by sewage, creamery or industrial wastes or other substances.

(10) NOXIOUS ODORS, ETC. Any use of property, substances or things within the Village emitting or causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or stenches repulsive to the physical senses of ordinary persons which annoy, discomfort, injure or inconvenience the health of any appreciable number of persons within the Village.

(11) STREET POLLUTION. Any use of property which shall cause any nauseous or unwholesome liquid or substance to flow into or upon any street, gutter, alley, sidewalk or public place within the Village.

11.035 ILLICIT DISCHARGES.

(1) PURPOSE. The purpose of this section is to provide for the health, safety, and general welfare of the citizens of the Village of DeForest and protect waters of the state through the regulation of illicit discharges to the Village's storm water conveyance system as required by federal and state law. This section establishes methods for controlling the discharge of pollutants into the Village's storm water conveyance system in order to comply with the requirements of the Clean Water Act, §283.33, Wis. Stats., and the Wisconsin Pollutant Discharge Elimination System municipal storm water discharge permit program under Ch. NR 216, Wis. Adm. Code. The objectives of this section are:

(a) To regulate the contribution of pollutants to the Village's storm water conveyance system associated with discharges from any user of the system.

(b) To prohibit illicit connections and discharges to the Village's storm water conveyance system.

(c) To establish legal authority to carry out all inspection, surveillance and monitoring procedures necessary to ensure compliance with this section.

(2) DEFINITIONS. For the purposes of this section, the following definitions shall apply:

(a) "Director" means the Director of Public Services of the Village.
[Am. 15-33, Eff. 07-07-15]

(b) "Illicit connection" means any drain or conveyance, whether on the surface or subsurface, which allows the discharge of waste products to the Village's storm water conveyance system and any connections to the municipal storm water conveyance system from indoor drains and sinks.

(c) "Illicit discharge" means any discharge to the Village's storm water conveyance system that is not composed entirely of storm water except discharges pursuant to a Wisconsin Pollutant Discharge Elimination System permit or other discharges expressly authorized by the Director.

(d) "Non-storm water discharge" means any discharge to the Village's storm water conveyance system that is not composed entirely of storm water.

(e) "Storm water conveyance system" means any part of the Village's system of conveyances, including roads with drainage systems, streets, catch basins, curbs, gutters, ditches, constructed channels or storm drains, which is designed or used for collecting or conveying storm water except that the term shall not apply to a combined sewer conveying both sanitary wastewater and storm water.

(f) "Storm water" means surface runoff and drainage of rainfall and snow or ice melt.

(g) "Waters of the state" means those portions of Lake Michigan and Lake Superior within the boundaries of Wisconsin, all lakes, bays, rivers, streams, springs, ponds, wells, impounding reservoirs, marshes, water courses, drainage systems and other surface water or groundwater, natural or artificial, public or private, within the state or under its jurisdiction, except those waters which are entirely confined and retained completely upon the property of a person.

(3) APPLICABILITY. This section shall apply to all discharges to the storm water conveyance system and to all activities that can reasonably be expected to result in a discharge thereto.

(4) ADMINISTRATION. The Director shall be responsible for administering and enforcing this section. Any powers granted or duties imposed upon the Director may be delegated in writing by the Director to any officer or employee of the Village or contractor

retained by the Village to exercise such powers.

(5) SEVERABILITY. The provisions of this section are hereby declared to be severable. If any provision, clause, sentence, or paragraph of this section or the application thereof to any person, establishment, or circumstances shall be held invalid, such invalidity shall not affect any other provisions or application of this section.

(6) PROHIBITED ACTIVITIES.

(a) Illicit Discharges. No person shall discharge or cause to be discharged into the storm water conveyance system or waters of the state any materials, including, but not limited to pollutants or waters containing any pollutants, that have the potential to cause or contribute to a present or future violation of applicable water quality standards, other than storm water. This paragraph shall not apply to any of the following non-storm water discharges or flows if done in a non-polluting manner:

[Am. 06-22, Eff. 6-8-06]

1. hydrant flushing,
2. lawn, tree or landscaping irrigation,
3. agricultural irrigation,
4. diverted stream flows,
5. uncontaminated groundwater infiltration,
6. uncontaminated pumped groundwater,
7. discharges from potable water sources,
8. foundation drains,
9. air conditioning condensation,
10. individual residential car washing,
11. flows from riparian habitats and wetlands,
12. dechlorinated swimming pool water,
13. residual water from street cleaning,
14. fire fighting.

(b) Responsibilities of Property Owners and Occupants. Every owner and occupant of land shall exercise reasonable care to prevent the unnecessary deposit into the stormwater conveyance system of leaves, grass clippings, yard waste and other plant materials which have the potential to cause an increase the nutrient load in the waters of the state. Any person whose activities result in the deposit of such materials into a street, gutter, or onto any surface reasonably likely to drain into any such facilities, shall promptly remove and contain such materials to prevent their further migration into the stormwater conveyance system.

[Cr. 06-22, Eff. 6-8-06]

(c) Illicit Connections. No person shall construct, make, use, maintain or allow to remain on property under his or her control, any illicit connections to the storm water conveyance system, whether or not such connection was lawful at the time it was made.

[Renumbered 06-22, Eff. 6-8-06]

(7) ACCESS TO FACILITIES. The Director shall be permitted to enter and inspect all land, buildings, structures or facilities subject to regulation under this section, as often as may be necessary to determine compliance with this section. If a discharger has security measures in force which require proper identification and clearance before entry into its premises, the discharger shall make the necessary arrangements to allow access to any

person authorized by the Director to enforce this section.

(8) NOTIFICATION OF SPILLS. Notwithstanding other requirements of law, as soon as any person responsible for a facility or operation, or responsible for emergency response for a facility or operation, has information regarding any known or suspected release of materials which are resulting, or which may result in, illicit discharges or pollutants discharging into storm water, the storm water conveyance system, or waters of the state, said person shall take all necessary steps to ensure the discovery, containment and cleanup of such release. In the event of such a release of hazardous materials, said person shall immediately notify the appropriate emergency response agencies of the occurrence via emergency dispatch services. In the event of a release of non-hazardous materials, said person shall notify the Director in person or by telephone or facsimile no later than the next business day. Notifications in person or by telephone shall be confirmed by written notice addressed and mailed to the Director within three business days of the initial notice.

(9) ENFORCEMENT.

(a) A person violating this section shall forfeit not less than \$25 nor more than \$500. Each day a violation continues shall be a separate offense.

(b) Citations for violations of this chapter may be issued as authorized by sec. 1.10 of this Code.

[Am. 14-13, Eff. 04-15-14]

(c) Every violation of this section is hereby declared to be a public nuisance. Compliance with this section may be enforced by injunctive order at the suit of the Village.

(d) The property owner shall take immediate action to remedy the violation upon receipt of a written compliance order from the Director or a citation. In the event the property owner fails to correct the violation, the Director may take any abatement actions reasonably necessary to prevent damage to the waters of the state. The costs incurred by the Village, plus interest and legal costs, shall be billed to the record owner of the property, and if not paid when due, shall be entered on the tax roll and collected as a special charge pursuant to Wis. Stats. §66.0627.

[Cr. 03-40, Eff. 10-09-2003]

11.04 PUBLIC NUISANCES OFFENDING MORALS AND DECENCY. The following acts, omissions, places, conditions and things are hereby specifically declared to be public nuisances offending public morals and decency, but such enumeration shall not be construed to exclude other nuisances offending public morals and decency coming within the definition of sec. 11.02 of this chapter:

(1) DISORDERLY HOUSES. All disorderly houses, bawdy houses, houses of ill fame, gambling houses and buildings or structures kept or resorted to for the purpose of prostitution, promiscuous sexual intercourse or gambling.

(2) GAMBLING DEVICES. All gambling devices and slot machines.

(3) UNLICENSED SALE OF LIQUOR AND BEER. All places where intoxicating liquor or fermented malt beverages are sold, possessed, stored, brewed, bottled, manufactured or rectified without a permit or license as provided for by this Code.

(4) CONTINUOUS VIOLATION OF VILLAGE ORDINANCES. Any place or premises within the Village where Village ordinances or state laws relating to public health, safety, peace, morals or welfare are openly, continuously, repeatedly and intentionally violated.

11.05 PUBLIC NUISANCES AFFECTING PEACE AND SAFETY. The following acts, omissions, places, conditions and things are hereby declared to be public nuisances affecting peace and safety, but such enumeration shall not be construed to exclude other nuisances affecting public peace or safety coming within the definition of sec. 11.02 of this chapter:

(1) SIGNS, BILLBOARDS, ETC. All signs and billboards, awnings and other similar structures over or near streets, sidewalks, public grounds or places frequented by the public, so situated or constructed as to endanger the public safety.

(2) ILLEGAL BUILDINGS. All buildings erected, repaired or altered in violation of the provisions of this Code relating to materials and manner of construction of buildings and structures within the Village.

(3) UNAUTHORIZED TRAFFIC SIGNS. All unauthorized signs, signals, markings or devices placed or maintained upon or in view of any public highway or railway crossing which purport to be or may be mistaken as an official traffic control device, railroad sign or signal or which because of its color, location, brilliance or manner of operation interferes with the effectiveness of any device, sign or signal.

(4) OBSTRUCTION OF INTERSECTIONS. All trees, hedges, billboards or other obstructions which prevent persons driving vehicles on public streets, alleys or highways from obtaining a clear view of traffic when approaching an intersection or pedestrian crosswalk.

(5) TREE LIMBS. All limbs of trees which project over and less than 10 feet above any public sidewalk or less than 10 feet above a street or other public place.

(6) DANGEROUS TREES. All trees which are a menace to public safety or are the cause of substantial annoyance to the general public.

(7) FIREWORKS. All use or display of fireworks except as provided by the laws of the State of Wisconsin and §5.26 of this Code.

(8) DILAPIDATED BUILDINGS. All buildings or structures so old, dilapidated or out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human use.

(9) WIRES OVER STREETS. All wires over streets, alleys or public grounds which are strung less than 18 feet above the surface thereof.

(10) NOISY ANIMALS OR FOWL. The keeping or harboring of any animal or fowl which by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Village.

(11) OBSTRUCTIONS OF STREETS: EXCAVATIONS. All obstructions of streets, alleys, sidewalks or crosswalks and all excavations in or under the same, except as

permitted by this Code or which, although made in accordance with this Code, are kept or maintained for an unreasonable or illegal length of time after the purpose thereof has been accomplished, or do not conform to the permit.

(12) UNLAWFUL ASSEMBLY. Any unauthorized or unlawful use of property abutting on a public street, alley or sidewalk or of a public street, alley or sidewalk which causes large crowds of people to gather, obstructing traffic and free use of the streets or sidewalks.

(13) [Repealed 18-05, Eff. 2-15-18]

(14) REFRIGERATORS. All abandoned refrigerators or iceboxes from which the doors and other covers have not been removed or which are not equipped with a device for opening from the inside.

(15) OPEN PITS, BASEMENTS, ETC. All open and unguarded pits, wells, excavations or unused basements freely accessible from any public street, alley or sidewalk.

(16) FLAMMABLE LIQUIDS VIOLATIONS. Repeated or continuous violations of this Code or the laws of the State of Wisconsin relating to the storage of flammable liquids.

11.06 DUTCH ELM DISEASE CONTROL.

(1) PUBLIC NUISANCES DECLARED. The following are hereby declared to be public nuisances wherever they may be found within the Village.

(a) Any living or standing elm tree or part thereof infected with the Dutch Elm disease fungus (*Seratocystis ulmi* [Buisman] Moreau) which harbors any of the elm bark beetles *Scolytus Multistriatus* (Eichh.) or *Hylurgopinus rufipes* (Marsh.).

(b) Any dead elm tree or part thereof, including logs, branches, stumps, firewood or other elm material from which the bark has not been removed and burned or sprayed with an effective elm bark beetle destroying insecticide.

(2) NUISANCES PROHIBITED. No person shall permit any public nuisance as defined in sub. (1) above to remain on any premises owned or controlled by him within the Village.

(3) INSPECTION.

(a) Authorized Village employees or agents shall inspect or cause to be inspected all premises and places within the Village at least twice each year to determine whether any public nuisance as defined in sub. (1) above exists thereon, and shall also inspect or cause to be inspected any elm tree reported or suspected to be infected with the Dutch Elm disease fungus or any elm bark-bearing material reported or suspected to be infected with the elm bark beetle.

(b) Authorized Village employees or agents may enter upon private premises at all reasonable times for the purpose of carrying out any of the provisions of this section.

(4) ABATEMENT OF DUTCH ELM DISEASE NUISANCES.

(a) Whenever any authorized Village employee or agent shall find, with reasonable certainty on examination or inspection, that any public nuisance, as defined in this section, exists within the Village, said employee or agent shall cause it to be sprayed, removed, burned or otherwise abated in such manner as to destroy or prevent as fully as possible the spread of Dutch Elm disease fungus or the insect pests or vectors known to carry such disease.

(b) Before abating any such nuisance on private premises or in any terrace strip between the lot line and the curb, the employee or agent shall proceed as follows:

1. If he shall determine that danger to other elm trees from said nuisance is not imminent because of elm dormancy, he shall make a written report of his findings to the Village Board who shall proceed as provided in §27.09(4), *Wis. Stats.*
2. If he shall determine that danger to other elm trees within the Village is imminent, he shall notify the owner of abutting owner of the property on which such nuisance is found in writing, if he can be found, otherwise by publication in a newspaper of general circulation in the Village that the nuisance must be abated as directed in the notice within a specified time, which shall not be less than 10 days from the date of such notice unless he shall find that immediate action is necessary to prevent spread of infection. If the owner fails to comply with the notice within the time limited, the employee or agent shall cause the abatement thereof.

(c) No damages shall be awarded to the owner for destruction of any elm tree, elm wood or elm material or any part thereof, pursuant to this section.

(5) SPRAYING OF ELM TREES. (a) Whenever the authorized employee or agent shall determine that any elm tree or elm material within or near the Village is infected with Dutch Elm disease fungus, he may cause to be sprayed all high value elm trees within a 1,000 foot radius thereof with an effective elm bark beetle-destroying concentrate, provided such spraying shall be performed prior to July 15 of after October 15 of any year.

(b) Before causing the spraying of any elm tree on private property in accordance with this section, said employee or agent shall notify the owner as provided in sub. (4)(b)2. above.

(6) ASSESSMENT OF COSTS OF ABATEMENT AND SPRAYING.

(a) The entire cost of abating any public nuisance as defined in sub. (1) above or of spraying any elm tree in accordance with subs. (4) or (5) above may be charged to and assessed against the parcel or lot abutting on the street, alley, boulevard or parkway upon or in which such tree is located or the parcel or lot upon which such tree stands in accordance with §66.0627(4), *Wis. Stats.* The cost of abating any nuisance or spraying any elm tree or part thereof which is located in or upon any park or public grounds shall be borne by the Village.

(b) The Village employee or agent shall keep strict account of the costs of work done under this section and shall report monthly to the Village Administrator all work done

for which assessments are to be made, stating and certifying the description of the land, lots, parts of lots or parcels of land and the amounts chargeable to each. The Village Administrator shall include in his report to the Village Board the aggregate amounts chargeable to each lot or parcel so reported, and such amounts shall be levied and assessed against such parcels or lots in the same manner as other special taxes.

(7) **SELLING AND TRANSPORTING OF ELM WOOD PROHIBITED.** No person shall sell or transport within the Village any bark bearing elm wood or material without first securing the written permission of the Village Administrator.

11.07 [Reserved]

11.08 ABATEMENT OF PUBLIC NUISANCES.

(1) **ENFORCEMENT.** It shall be the duty of the Chief of Police and the Building Inspector to enforce the provisions of this chapter. The Weed Commissioner shall have concurrent jurisdiction to enforce the provisions of secs. 11.03(8), 11.05(4)-(6), 11.06 and 11.07. Such officers shall make periodic inspections and inspections upon complaint to ensure that such provisions are not violated. Notwithstanding the foregoing, any provision of this chapter may be enforced by the Village Administrator and Village employees designated by the Administrator to make such inspections and reports. No action shall be taken under this section to abate a public nuisance unless an officer shall have inspected or caused to be inspected the premises where the nuisance is alleged to exist and has determined that a nuisance does in fact exist.

[Am. 97-11, Eff. 03-17-97]

(2) SUMMARY ABATEMENT.

(a) **Notice to Owner.** If the inspecting officer or agent shall determine that a public nuisance exists within the Village and that there is great and immediate danger to the public health, safety, peace, morals or decency he shall immediately report such determination to the Village Administrator and the Village Administrator may direct the Chief of Police to serve notice on the person causing, permitting or maintaining such nuisance or upon the owner or occupant of the premises where such nuisance is caused, permitted or maintained and to post a copy of said notice on the premises. Such notice shall direct the person causing, permitting or maintaining such nuisance or the owner or occupant of the premises to abate or remove such nuisance within 24 hours and shall state that unless such nuisance is so abated, the Village will cause the same to be abated and will charge the cost thereof to the owner, occupant or person causing, permitting or maintaining the nuisance, as the case may be.

[Am. 92-31, Eff. 11-2-92]

(b) **Abatement by Village.** If the nuisance is not abated within the time provided or if the owner, occupant or person causing the nuisance cannot be found, the officer having the duty of enforcement shall cause the abatement or removal of such public nuisance.

[Am. 92-31, Eff. 11-2-92]

(3) NON-SUMMARY ABATEMENT.

(a) **Order To Abate Nuisance.** If the inspecting officer shall determine that a public nuisance exists on private premises but that the nature of such nuisance is not such as to threaten imminent danger to the public health, safety, peace, morals or decency, he/she

shall issue an order reciting the existence of a public nuisance and requiring the owner or occupant of the premises to remove or abate the condition described in the order within the time period specified therein. The order shall be served personally on the owner of the building as well as the occupant if different from the owner and applicable to the described nuisance, or, at the option of the inspecting officer, the notice may be mailed to the last known address of the person to be served by registered mail with return receipt. If the owner or the occupant cannot be served, the order may be served by posting it on the main entrance of the premises and by publishing as a class 3 notice under Chapter 985, Wis. Stats. The time limit specified in the order runs from the date of service or publication.

[Am. 00-14, Eff. 5-19-00]

(b) Abatement by Village. If the owner or occupant fails or refuses to comply within the time period prescribed, the inspecting officer shall enter upon the premises and cause the nuisance to be removed or abated and the Village shall recover the expenses incurred thereby from the owner or occupant of the premises or from the person who has caused or permitted the nuisance.

[Am. 00-14, Eff. 5-19-00]

(c) Remedy From Order. Any person affected by such order shall, within thirty (30) days of service or publication of the order, apply to the circuit court for an order restraining the Village and the inspecting officer from entering on the premises and abating or removing the nuisance, or be forever barred. The court shall determine the reasonableness of the order for abatement of the nuisance.

[Am. 00-14, Eff. 5-19-00]

(4) OTHER METHODS NOT EXCLUDED. Nothing in this chapter shall be construed as prohibiting the abatement of public nuisances by the Village or its officials in accordance with the laws of the State of Wisconsin. No action taken to abate a nuisance shall preclude an action seeking a forfeiture as provided in sec. 11.11 of this Code.

[Am. 92-31, Eff. 11-2-92; Am. 12-30, Eff. 11-3-12; Am. 14-13, Eff. 04-15-14]

11.09 COST OF ABATEMENT. In addition to any other penalty imposed by this chapter for the erection, contrivance, creation, continuance or maintenance of a public nuisance, the cost of abating a public nuisance by the Village shall be collected as a debt from the owner, occupant or person causing, permitting or maintaining the nuisance, and if notice to abate the nuisance has been given to the owner, such cost shall be assessed against the real estate as a special charge.

11.10 JUNKED AUTOMOBILE, ETC.

[Sec. 11.10 Am. 04-35, Eff. 12-23-04]

(1) STORAGE OF AUTOMOBILES RESTRICTED.

(a) No disassembled, inoperable, unlicensed, junked or wrecked motor vehicles, truck body, tractors or trailer, no individual parts or components detached from a motor vehicle or trailer and no appliances shall be stored or allowed to remain in the open upon private property within the Village for a period exceeding five (5) days in any thirty (30) day period except on the premises of a properly licensed automobile or appliance sales, repair, towing, or storage business enterprise located in a properly zoned area.

[Am. 09-05, Eff. 3-19-09]

(b) Any business engaged in automotive or appliance sales, towing, or repair may retain such vehicles or appliances outdoors, on properly zoned private property of that

business, provided that such storage of any one vehicle or appliance shall not continue for more than six (6) months in any twelve (12) month period and provided that all other applicable requirements of this Code are met.

[Am. 09-05, Eff. 3-19-09]

(c) Except as provided in pars. (a) and (b), no motor vehicle shall be stored or allowed to remain in the open upon private property within the Village for a period exceeding three (3) months in any 12 month period.

[Cr. 94-14, Eff. 4-18-94; Am. 09-05, Eff. 3-19-09]

(d) No disassembled, inoperable, unlicensed, junked or wrecked motor vehicle, and no truck body, tractor, semi-trailer or appliance shall be stored or allowed to remain outdoors on any public land or highway at any time. This paragraph shall not apply to a disabled motor vehicle left on or adjacent to a public highway, at the location at which it became disabled, for sufficient time to allow for towing or repair, but not longer than 72 hours. This paragraph shall not apply to materials properly placed within a public right of way for collection and disposal for a period not to exceed 3 days, provided that proper arrangements for collection and disposal have been made.

[Am. 07-37, Eff. 12-7-07]

(2) DEFINITIONS.

(a) The term "disassembled, inoperable, junked or wrecked motor vehicle, truck body, tractor, trailer" as used in this section shall mean any motor vehicle, truck body, tractor, or trailer in such state of physical or mechanical ruin, damage, deterioration, disassembly or disrepair as to be incapable of being operated safely and lawfully upon the public streets or highways in the manner for which it was designed.

(b) The term "unlicensed - motor vehicle, truck body, tractor or trailer" shall mean any motor vehicle, truck body, tractor or trailer which do not bear lawful current license plates.

(c) The term "motor vehicle" shall have the meaning defined in §340.01(35), *Wis. Stats.*

(d) The term "appliance" shall mean any stove, oven, washer, dryer, water heater, furnace, space heater, water softener, dishwasher, trash compactor, lawn mower, garden tractor, refrigerator or freezer.

(3) Any vehicle, trailer or appliance, or any part thereof, stored or allowed to remain on any property within the Village in violation of this section is declared to be a public nuisance and shall be subject to abatement pursuant to the applicable procedures contained in secs. 3.07 or 11.08 of this Code.

(4) Any person who shall be adjudicated to have violated any of the provisions of this section shall be subject to a forfeiture not to exceed \$100 plus the costs of prosecution, and upon default of payment of such forfeiture and costs shall be imprisoned in the Dane County Jail until such forfeiture and costs are paid, but not to exceed 10 days. Each day that a violation of this section continues shall be deemed a separate offense.

11.11 PENALTY.

(1) General. Except as provided in sub. (2), any person who shall violate any provision of this chapter or cause a public nuisance shall be subject to a civil forfeiture of:

[Am. 92-31, Eff. 11-2-92; Am. 14-06, Eff. 03-15-14]

(a) not less than \$50.00 nor more than \$500.00 for a first violation;

(b) not less than \$100.00 nor more than \$500.00 for second and subsequent violations.

(2) Environmental Pollution Nuisances. (a) In this subsection "environmental pollution nuisance" shall mean any nuisance prohibited by §11.03(7), (9) or (10) which results from the intentional act or omission of any person under circumstances that the nuisance condition could reasonably be expected to result and which:

1. continues to such an extent, and for such duration, as to unreasonably cause a material adverse effect on the use and enjoyment of nearby properties for the lawful purposes to which such properties are used; or
2. has a tendency to cause a substantial decrease in the value of neighboring properties; or
3. is of such severity in degree or kind as to cause or contribute to sickness or significant physical discomfort of persons temporarily or permanently occupying nearby properties; or
4. causes or contributes to a violation of any applicable state or federal air or water quality standard; or
5. is in violation of any provision of a state or federal statute, standard, regulation, permit or permit condition limiting the discharge of any substance, chemical, chemical compound, dust, odor or other emission from any land, structure or operation.

[Cr. 14-06, Eff. 03-15-14]

(b) Penalty for Environmental Pollution Nuisances. Any person who shall cause or maintain an environmental pollution nuisance shall be subject to a forfeiture of:

1. not less than \$1,000 nor more than \$5,000 for a first offense; or
2. not less than \$1,000 nor more than \$25,000 for a second or subsequent offense.

[Cr. 14-06, Eff. 03-15-14]

(3) Continuing Violations. Each day a violation continues shall constitute a separate offense. Except as provided in sub. (4), each violation shall be considered a first violation unless 24 hours has elapsed following notice by the Village of the violation. Notice includes, but is not limited to:

- (a) Oral or written notification or warning provided to the violator;
- (b) The posting of a written notice on the premises where the violation has occurred;
- (c) Service of a citation, summons or other document commencing any enforcement action; or
- (d) Any other method of communication which provides actual notice of the violation to the violator.

[Renumbered and am. 14-07, Eff. 04-04-14]

(4) **Recurring Violations.** Notwithstanding the provisions of sub. (3), a violation shall constitute a second or subsequent violation if committed by a person who, within the previous 3 years, has been adjudicated guilty of a violation of this chapter by any court of competent jurisdiction.

[Am. 92-31, Eff. 11-2-92; Renumbered and am. 14-07, Eff. 04-04-14]

(5) **Penalty Factors.** In assessing forfeitures under this subsection, the court shall consider the following non-exclusive factors:

- (a) The remedial purpose of this subsection to remedy and deter nuisances significantly affecting the public health, safety and welfare, including the rights of others to enjoy the use of private and public properties;
- (b) Whether the activity causing the nuisance is undertaken for profit, and any competent evidence presented by the defendant relating to the amount of profit generated by the activity;
- (c) Any efforts by the defendant to prevent or mitigate the nuisance;
- (d) The seriousness of the violation and the number of persons and/or properties affected thereby; and
- (e) The duration of the nuisance after notice thereof to the defendant.

[Cr. 14-06, Eff. 03-15-14]

(6) **Private Remedies Preserved.** Nothing in this chapter shall be construed in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have available as a result of any nuisance.

[Am. 92-31, Eff. 11-2-92; Renumbered 14-06, Eff. 03-15-14]

CHAPTER 12 HEALTH AND SANITATION

12.01	Compulsory Connection to Sewer or Water.....	12-1
12.02	[Reserved].....	12-1
12.03	Regulation of Nuisance-type Businesses.....	12-2
12.04	Sale of Unwholesome or Tainted Food Prohibited	12-2
12.045	Sale of Mercury Thermometers Prohibited.....	12-2
12.05	Right of County Health Officer to Enter Premises	12-2
12.06	Abatement of Health Nuisances	12-2
12.07	Control of Weeds and Grass.....	12-2
12.08	Smoking Prohibited in Certain Areas.....	12-3
12.09	Penalty	12-4

12.01 COMPULSORY CONNECTION TO SEWER OR WATER.

(1) To assure preservation of public health, comfort and safety, it shall be the duty of the owner of any building used for human habitation and located adjacent to a sewer or water main, or in a block through which one or both of such systems extend, to connect therewith after notice as provided herein.

(2) When a sewer or water main becomes available to any building used for habitation, the Building Inspector shall notify the owner in writing to connect thereto and to install a water closet and such other facilities as may be reasonably necessary to protect the public health, welfare and safety. The manner of connecting shall be prescribed by the Building Inspector.

(3) The notice required by this section shall be given in the manner prescribed by §281.45, *Wis. Stats.*, or by registered mail addressed to the last known address of the owner or his/her agent.

(4) If the owner or his agent fails to comply after 10 days' notice as herein provided, the notifying officer may cause connections and installations to be made and the expense thereof assessed as a special assessment tax against the property.

(5) The owner may within 30 days after receipt of an invoice for work completed, file a written option with the Village Administrator stating that he cannot pay the cost of connection in one sum and electing that such sum be levied in 5 equal annual installments, with interest on the unpaid balance at the current interest rate.

(6) After connection of any building used for human habitation to a sewer main, no privy, cesspool or waterless toilet shall be used in connection with such human habitation.

12.02 [Reserved]

12.03 REGULATION OF NUISANCE-TYPE BUSINESS.

(1) PERMIT REQUIRED. No person shall conduct within the Village any business which has a tendency to create a public nuisance, except upon permit issued by the Village Board and subject to such conditions as the Board may impose.

(2) DEFINITION. A business which has a tendency to create a public nuisance, as defined in sec. 11.02(1) of this Code, unless properly regulated.

(3) STATUTORY REFERENCE. This section is enacted pursuant to §66.0415, *Wis. Stats.*

12.04 SALE OF UNWHOLESOME OR TAINTED FOOD PROHIBITED. No person shall sell, offer for sale or hold for sale any meat, fish, fruits, vegetables or other articles of food or drink which is not fresh or properly preserved, sound, wholesome and safe for human consumption or the flesh of any animal which died by disease. The County Health Officer is hereby authorized and directed to seize and destroy any articles of food or drink which are offered or held for sale to the public which have become tainted, decayed, spoiled or otherwise unwholesome or unfit for human consumption.

12.045 SALE OF MERCURY THERMOMETERS PROHIBITED. The sale or distribution of mercury fever or basal thermometers is prohibited. No person shall sell at retail or offer for sale at retail within the Village any fever thermometer containing mercury.
[Cr. 00-43, Eff. 9-19-00]

12.05 RIGHT OF COUNTY HEALTH OFFICER TO ENTER PREMISES. The County Health Officer shall have the right to enter and examine and public premises or any place where meat, fish, poultry, game, milk, bakery goods or other foodstuffs are stored, prepared or dispensed for public consumption and to inspect or examine any vehicle transporting such foodstuffs for the purpose of enforcing the provisions of this chapter.

12.06 ABATEMENT OF HEALTH NUISANCES. The County Health Officer and the Village Board shall have the power to abate health nuisances in accordance with §254.59, *Wis. Stats.*, which is hereby adopted by reference and made a part of this section as if fully set forth herein.

12.07 CONTROL OF WEEDS AND GRASS.

[Renumbered and Am. 16-15, Eff. 06-17-16]

(1) NOXIOUS WEEDS PROHIBITED.

(a) Definition. "Noxious weeds" means any of the following plants:

1. Cirsium arvense (Canada thistle).
2. Ambrosia artemisiifolia (common ragweed).
3. Ambrosia trifida (great ragweed).
4. Euphorbia esula (leafy spurge).
5. Convolvulus arvensis (creeping jenny) (field bind weed).
6. Tragopogon dubius (goat's beard).
7. Rhus radicans (poison ivy).
8. Cirsium vulgaries (bull thistle).

9. *Pastinaca sativa* (wild parsnip).
10. *Arctium minus* (burdock).
11. *Xanthium strumarium* (cocklebur).
12. *Amaranthus retroflexus* (pigweed).
13. *Chenopodium album* (common lambsquarter).
14. *Rumex crispus* (curled dock).
15. *Cannabis sativa* (hemp).
16. *Plantago lanceolata* (English plantain).
17. *Urtica dioica* (stinging nettle).
18. Noxious grasses, including *Agrostis alba* (redtop), *Dactylis glomerata* (orchard), *Phleum pratensis* (timothy), *Poa pratensis* (Kentucky blue), *Sorghum halepense* (Johnson), *Setaria* (foxtail).
19. Other plants and rank growth, including all ragweed, thistles, smartwee, dandelions over twelve inches (12").
20. Any plant listed under §§ 23.235(1)(a) and 66.0407(1)(b), Wis. Stats., or prohibited under Wis. Admin. Code § NR 40.

(b) Noxious Weeds Prohibited. All noxious weeds are prohibited. A person owning, occupying or controlling land shall destroy all noxious weeds on the land.
[Cr. 16-15, Eff. 06-17-16]

(2) MOWING REQUIRED. No person owning property within the Village shall permit grass to grow over twelve inches (12") in height, and it shall be the duty of every property owner to mow or cause to be mowed upon his premises all grasses exceeding this height restriction.

[Renumbered and Am. 16-15, Eff. 06-17-16]

(3) MOWING AND TREATMENT BY VILLAGE. It shall be the duty of the Weed Commissioner to enforce this section and if any person shall fail to comply herewith, the Commissioner shall cause the premises to be mowed and/or treated to destroy weeds, and shall report the cost thereof in writing to the Village Administrator. The Weed Commissioner shall provide the owner with 5 days' written notice before causing the property to be mowed by the Village staff or contractor, except that such notice shall not be required if the same owner has received a similar notice within the previous six months and failed to correct the violation noticed within the time allowed. Said cost shall be invoiced to the owner. In the event of nonpayment within 30 days from said report of cost, such cost shall be assessed against the real estate as a special charge. Any charge assessed under this section may be appealed as provided in Chapter 17 of this Code.

[Am. 12-30, Eff. 11-3-12; Renumbered and Am. 16-15, Eff. 06-17-16]

(4) This section shall not apply to property designated by the Village Board to be maintained as a prairie area as provided in sec. 16.01(2)(d) of this Code.

[Cr. 93-39, Eff. 10-8-93; Am. 14-01, Eff. 1-17-14; Renumbered and Am. 16-15, Eff. 06-17-16]

12.08 SMOKING PROHIBITED IN CERTAIN AREAS. (1) The provisions of §101.123, Wis. Stats., and all acts amendatory thereto, are adopted by reference.

(2) Any person violating this section shall be subject to forfeitures as provided in §20.04.
[Cr. 10-26, Eff. 8-5-11]

12.09 PENALTY.

(1) Any person who shall violate sec. 12.045 shall be subject to a forfeiture of not less than \$20 nor more than \$200.

[Am. 00-43, Eff. 9-19-00]

(2) Except as provided in sub. (1), any person who shall violate any provision of this chapter shall be subject to the penalty provided by sec. 20.04 of this Code.

[Am. 00-43, Eff. 9-19-00]

(3) Each violation of this section, and each day a violation continues or occurs, shall constitute a separate offense. This section shall not preclude the Village from maintaining an appropriate action to prevent or remove a violation of this chapter.

[Cr. 00-43, Eff. 9-19-00]

CHAPTER 13
SUBDIVISION AND DEVELOPMENT
[Repealed & Recreated 05-11, Eff. 4-21-05]

SUBCHAPTER 1 – GENERAL PROVISIONS	13-1
13.01 PURPOSE AND INTENT.....	13-1
13.02 INTERPRETATION.....	13-2
13.03 DEFINITIONS.....	13-2
13.035 SPECIFIC REGULATIONS FOR AREAS AFFECTED BY HIGHWAY TRAFFIC NOISE.....	13-7
13.04 JURISDICTION.....	13-8
13.05 COMPLIANCE.....	13-9
13.06 LAND SUITABILITY.....	13-9
13.07 REQUIRED INFORMATION.....	13-9
13.08 FEES.....	13-11
13.09 WAIVERS AND MODIFICATIONS.....	13-12
13.10 VIOLATIONS.....	13-13
13.11 PENALTIES.....	13-13
13.12 APPEALS.....	13-13
13.13 EXTRATERRITORIAL LAND DIVISION POLICIES.....	13-13
SUBCHAPTER II – CERTIFIED SURVEY MAPS.....	13-15
13.20 WHEN REQUIRED.....	13-15
13.21 TECHNICAL REQUIREMENTS.....	13-15
13.22 PROCEDURE FOR APPROVAL.....	13-16
SUBCHAPTER III – SUBDIVISION PLATS.....	13-18
13.30 PLATS REQUIRED.....	13-18
13.31 TECHNICAL REQUIREMENTS.....	13-18
13.32 PROCEDURE FOR APPROVAL.....	13-22
13.33 CERTIFICATES.....	13-25
13.34 COPIES OF RECORDED PLAT.....	13-25
SUBCHAPTER IV – PUBLIC IMPROVEMENT STANDARDS.....	13-25
13.40 STREETS.....	13-25
13.41 BLOCKS.....	13-29
13.42 LOTS.....	13-29
13.43 EASEMENTS.....	13-30
13.44 PUBLIC SITES AND OPEN SPACES.....	13-30
13.45 REQUIRED IMPROVEMENTS.....	13-30
SUBCHAPTER V – DEDICATION REQUIREMENTS.....	13-34
13.50 PARK AND PUBLIC LAND DEDICATIONS.....	13-34
13.51 IMPACT FEES FOR PARK FACILITIES.....	13-35
13.52 IMPACT FEES FOR PUBLIC SAFETY FACILITIES.....	13-38
SUBCHAPTER VI – DEVELOPMENT REQUIREMENTS.....	13-41
13.60 DEVELOPMENT REGULATIONS.....	13-41
13.61 SUBDIVIDER'S AGREEMENT.....	13-42

SUBCHAPTER 1 – GENERAL PROVISIONS

13.01 PURPOSE AND INTENT. (1) PURPOSE. The purpose of this chapter is to regulate and control the division of land within the corporate limits and extraterritorial plat approval jurisdiction of the Village in order to promote the public health, safety and general welfare of the Village.

(2) INTENT. It is the general intent of this chapter to regulate the division of land so as:

- (a) To lessen congestion in the streets and highways and provide for their appropriate and timely upgrade to serve the needs of the land division;
 - (b) To further the orderly layout and appropriate use of land; to secure safety from fire, panic, flood, excessive traffic relative to road capacity, and other dangers;
 - (c) To provide adequate light and air;
 - (d) To prevent the overcrowding of land and to avoid undue concentration of population;
 - (e) To facilitate adequate provision of transportation, water, sewerage, schools, parks, bicycle and pedestrian facilities and access, playgrounds and other public requirements;
 - (f) To facilitate the further division of larger tracts into smaller parcels of land, while minimizing conflict among adjoining lots and uses;
 - (g) To encourage the orderly and beneficial development of the community through appropriate growth management techniques, infill development in areas with adequate public facilities, and appropriate development phasing that limits land division in areas premature for urban development;
 - (h) To ensure that public facilities, utilities, and services are available concurrent with land division development, and that they will have sufficient capacity to serve the proposed land division, and that the community will be required to bear no more than its fair share of the cost of providing such facilities, utilities, and services;
 - (i) To ensure the protection and, where possible, the enhancement, of environmental resources, and the preservation of productive farmland and natural beauty to the extent consistent with Village plans;
 - (j) To ensure adequate legal description and proper survey monumentation of land divisions;
 - (k) To provide for the administration and enforcement of this chapter and for penalties for its violation; and
- [Am. 08-12, Eff. 4-18-08; Ratified 08-20, Eff. 5-20-08]
- (l) In general to facilitate enforcement of community development standards as set forth in the master plan, the Zoning Code, the Building Code and the Official Map of the Village.
[Am. 08-09, Eff. 3-14-08; Am. 15-37, Eff. 8-18-15]

13.02 INTERPRETATION

(1) ABROGATION AND GREATER RESTRICTIONS. Nothing in this chapter is intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, agreements, rules, regulations or permits previously adopted or issued pursuant to law. However, where this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(2) MINIMUM REQUIREMENTS. In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements, shall be liberally construed in favor of the Village and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

13.03 DEFINITIONS. As used in this chapter, the following words shall have the following meanings:

(1) "Alley" means a public right-of-way that normally affords a secondary means of vehicular access to abutting property.

(2) "Applicant" shall mean any person or entity which submits an application to the Village for a development approval.

(3) "Arterial street" means a public street that serves longer intra-urban trips and traffic traveling through the urban area and has limited to no direct access for abutting land uses, including any public street designated as an arterial street within the Village's master plan. Examples include North Street and Main Street.

[Am. 11-21, Eff. 6-10-11; Am. 15-37, Eff. 8-18-15]

(4) "Block" means an area of land within a subdivision that is entirely bounded by a combination of streets, exterior boundary lines of the subdivision, and streams or water bodies.

(5) "Building permit" means the permit required for new construction and additions pursuant to section 14.05 of this Code.

(6) [Repealed 15-37, Eff. 8-18-15]

(7) "Capital improvements" means public park and recreational facilities that are treated as capitalized expenses according to generally accepted accounting principles, including the cost of acquiring, constructing and equipping the same, but not including costs associated with the operation, administration, maintenance, or replacement of capital improvements.

(8) [Repealed 15-37, Eff. 8-18-15]

(9) [Repealed 15-37, Eff. 8-18-15]

(10) "Capital Costs" means the capital costs to construct, expand or improve public facilities, including the cost of land, and including legal, engineering and design costs to construct, expand or improve public facilities, except that not more than 10% of capital costs may consist of legal, engineering and design costs unless the legal, engineering and design costs which relate directly to the public improvement for which the impact fees were imposed exceed 10% of the capital costs. "Capital costs" does not include other non-capital costs to

construct, expand or improve public facilities or the cost of equipment to construct, expand or improve public facilities.

(11) "Collector street" means a public street that collects and distributes internal traffic within an urban area, such as within a residential neighborhood, providing access between local and arterial streets and limited access for abutting land uses, including any public street designated as a collector street within the Village's master plan. Examples include Stevenson Street and South Street.

[Am. 11-21, Eff. 6-10-11; Am. 15-37, Eff. 8-18-15]

(12) "Cul-de-sac" means a minor street having but one end open to traffic and the other end being terminated in a vehicular turnaround.

(12d) "dB" is an abbreviation for "Decibel" which is a unit for measuring the volume of a sound, equal to 20 times the logarithm to the base ten of the ratio of the pressure of the sound measured to the reference pressure, which is 20 micropascals (20 micronewtons per square meter).

[Cr. 11-21, Eff. 6-10-11]

(12e) "dB(A)" is the standard notation for the sound pressure level as measured with a sound level meter using the A-weighting network.

[Cr. 11-21, Eff. 6-10-11]

(13) "Development" means any man-made change to improved or unimproved real property, the use of any principal structure or land, or any other activity that requires issuance of a building permit.

(14) "Development approval" shall mean the review and approval by the Village of a certified survey map, preliminary plat, final plat, preliminary or final development plan, development or subdivider's agreement or site plan and the acceptance of public improvements in connection with any of the foregoing.

(15) [Repealed 15-37, Eff. 8-18-15]

(15m) "Extraterritorial jurisdiction" means the unincorporated area within 1½ miles of the Village limits, except to the extent modified by the overlapping extraterritorial jurisdiction of another city or village under §66.0105, *Wis. Stats.*, by cooperative plan under §66.0307, *Wis. Stats.*, intergovernmental agreement under §66.0301 and §236.10(4), *Wis. Stats.*, and/or a waiver of such jurisdiction pursuant to §236.10(5), *Wis. Stats.*

[Cr. 06-07, Eff. 3-9-06; Am. 11-21, Eff. 6-10-11; Am. 12-11, Eff. 7-27-12]

(16) "Frontage street" means a local street auxiliary to and located on the side of an arterial street for control of access and for service to the abutting development.

(17) "Impact Fee" means the fee or assessment levied pursuant to sec. 13.51 or 13.52.
[Am. 05-28; Eff. 10-6-05]

(18) "Impact fee coefficient" means the charge per dwelling unit calculated by dividing total public facility costs by total number of dwelling units as projected by the most current needs assessment.

(19) [Repealed 15-37, Eff. 8-18-15]

(19m) "Joint Committee" means the Joint Extraterritorial Zoning Committee as defined in §15.02(40m) of this Code. [Cr. 13-13, Eff. 7-12-13]

(20) "Land Division" is a general term for a division of land where a single parcel of land is converted into two or more legal parcels, any one of which is less than 35 acres in area. Each contiguous land holding under common ownership that is less than 35 acres shall be included in a land division as a lot or outlot. The term includes land divisions resulting from the recording of a condominium plat if the result of the recording is the creation of 2 or more lots, but does not include a condominium plat affecting only a single, pre-existing lot.

[Am. 08-09, Eff. 3-14-08; Am. 15-37, Eff. 8-18-15]

(21) "Local street" means a street designed to provide access to abutting land uses and leading into a collector street or into an arterial street, but which is not designed to carry through traffic from outside the neighborhood in which it is located.

[Am. 11-21, Eff. 6-10-11]

(22) "Lot" means a parcel of land having frontage on a public street or other officially approved means of access, occupied or intended to be occupied by a principal structure or use and sufficient in size to meet the lot width, lot frontage, lot area, yard, parking area, and other open space provisions of this chapter and any applicable zoning ordinance.

(23) "Major thoroughfare or major street" means a street used or intended to be used primarily for fast or heavy through traffic. Major thoroughfares shall include freeways, expressways, and other highways and parkways, as well as arterial streets.

(24) "Master plan" means a comprehensive plan prepared by the Village, pursuant to Wis. Stats. §62.23(3) or §66.1001, indicating the general locations recommended for the various functional classes of land use, places and structures, and for the general physical development of the Village, and includes any unit, component, or part of such plan separately adopted and maintained, and any amendment to such plan or parts thereof.

[Am. 15-37, Eff. 8-18-15]

(24a) "Mature Tree" means any tree that is twelve (12) inches or greater in diameter at a height of four and one-half feet above grade, other than a tree specifically planted and grown for commercial purposes or any Box Elder, Siberian Elm, Buckthorn, Russian Olive, or other invasive or nuisance tree as designated by the Village Forester.

[Cr. 08-09, Eff. 3-14-08; Am. 13-13, Eff. 7-12-13]

(24b) "Mature Woodland" means an area or stand of trees with a total combined canopy area of one acre or greater, with at least 50% of the trees having a diameter of at least six (6) inches at a height of four and one-half feet above grade, other than an area or stand of trees specifically planted and grown for commercial purposes or dominated by invasive or nuisance trees as designated by the Village Forester.

[Cr. 08-09, Eff. 3-14-08; Am. 13-13, Eff. 7-12-13]

(24m) "Minor division" means a land division not involving the dedication of land within the Village, proposed to be completed by certified survey map and prepared for one of the following purposes, as determined by the Zoning Administrator:

(a) The certified survey map will adjust one or more a common property lines between lots, outlots, legal parcels, or other mortgage descriptions where no new lots are created and where all dimensional, setback, lot area, and other requirements of this chapter and Chapter 15 of the Municipal Code would be met;

(b) The certified survey map will combine one or more lots, outlots, legal parcels, or other mortgage descriptions in a manner that does not conflict with the intent of the original land division approval or conditions thereto, if known; or

(c) The certified survey map will split an existing lot developed with a two-family residential building, or proposed for development with a two-family residential building, for the purpose of zero lot line construction, as defined in §15.02(103m), per the requirements in §15.10(4)(a), and if permitted in the associated zoning district under Table 15.10A.

[Cr. 13-13, Eff. 7-12-13; Am. 15-37, Eff. 8-18-15]

(24q) "Mixed Use Development" means a land development that includes or allows a blend of commercial services, retail, office, multiple family residential, and/or institutional uses within a single lot or building. Single family and/or two family residential development may not be part of and is not considered mixed use development.

[Cr. 15-37, Eff. 8-18-15]

(25) "Needs Assessment" means the assessment of needs required to identify public facility costs for the purpose of calculating impact fees as described in §66.0617, *Wis. Stats.*

(25k) "Official Map" means a map of the Village and surrounding areas depicting current and future public rights-of-way, drainageways, and other public lands, as authorized under §§61.35 and 62.23(6), *Wis. Stats.*

[Cr. 11-21, Eff. 6-10-11]

(25p) "Outdoor Living Area" means a space associated with a residential land use that is typically used for outdoor recreational activities or an outdoor space associated with other noise-sensitive uses, including outdoor patio, deck, and balcony areas; public parks and outdoor play areas including those associated with child care facilities; outdoor patient recovery or resting areas associated with medical facilities or housing for the elderly, and similar areas as determined by the Zoning Administrator. "Outdoor Living Area" does not include any front yard area, driveway area, parking lot, maintenance area or storage area, or any exterior area at a medical facility that is not used for patient activities.

[Cr. 11-21, Eff. 6-10-11]

(26) "Pedestrian Ways" are defined as public pedestrian access other than sidewalks along public streets.

(27) "Protective covenants" mean contracts entered into between private parties or between private parties and public bodies pursuant to *Wis. Stats.* §236.293, that constitute a restriction on the use of all private or platted property within a land division created by a certified survey map or subdivision for the benefit of the public or property owners and to provide protection against undesirable aspects of development that would tend to impair stability of values or otherwise.

(27m) "Public Improvement" means any sanitary sewer main, storm sewer, stormwater management, curb and gutter, water main, roadway, park, parkway, sidewalk, pedestrian way, bicycle path, trail, tree or other vegetation, or other facility or infrastructure for which the Village has assumed, or intends to ultimately assume, the responsibility for ownership, maintenance, and operation.

[Cr. 15-37, Eff. 8-18-15]

(28) "Replat" means the process of changing or a map or plat that changes, the boundaries of a recorded subdivision plat, certified survey map, or part thereof. The legal dividing of a large block, lot or outlot within a recorded subdivision plat or certified survey map without changing exterior boundaries of such block, lot, or outlot is not a replat.

[Am. 20-16, Eff. 6-3-20]

(29) "Residential development" means any development which includes any building or structure designed or intended for residential use. [Am. 08-09, Eff. 3-14-08; Am. 08-12, Eff. 4-18-08; Ratified 08-20, Eff. 5-20-08]

(30) "Site" means the land on which development takes place.

(31) "Subdivider" means any person or any agent thereof dividing or proposing to divide land resulting in a subdivision plat, certified survey map, or replat.

(32) "Subdivision" means a division of a lot, parcel or tract of land by the owner thereof or the owner's agent for the purpose of sale or of building development, and to which any of the following applies:

(a) The act of division creates 5 or more parcels or building sites of 1 1/2 acres each or less in area; or

(b) Five or more parcels or building sites of 1 1/2 acres each or less in area are created by successive divisions within a period of 5 years.

Notwithstanding the above, "subdivision" does not include a division of land into not more than nine lots and outlots of 1½ acres each or less where the land division is in an area is zoned for commercial, industrial, or mixed use development in the Village or its extraterritorial zoning area, as that term is defined in Section 15.02(26m) of the Zoning Code.
[Am. 15-37, Eff. 8-18-15]

(33) "Usable land" means land intended for public park dedication where required under this chapter that:

(a) Is located outside of the floodplain, wetlands, surface waters, storm water basins and conveyance routes, and other areas with severe limitations for park development in the determination of the Village Board;

(b) Contains developer-finished slopes of less than 4% for active recreation areas, and slopes of less than 12% for passive recreation areas and conservancy;

(c) Is sufficiently shaped and contains suitable soils for construction of the anticipated park facilities, in the determination of the Director of Recreation and Community Enrichment;
[Am. 21-01; Eff. 2-12-21]

(d) Has at least 15% of its perimeter adjacent to a public street;

(e) Is visible and accessible to the public for foot, bike, and motor vehicle access and for effective monitoring for public safety;

(g) Does not present any environmental hazard, risk or liability to the community, such as through soil contamination or nuisance or invasive vegetation; and

(h) Is situated in a location that is consistent with the Village's master plan including its Park and Open Space Plan component, that contributes to the Village's community development goals, and that adequately serves the park's service area.
[Cr. 15-37, Eff. 8-18-15]

13.035 SPECIFIC REGULATIONS FOR AREAS AFFECTED BY HIGHWAY TRAFFIC NOISE.

(1) APPLICABILITY. This section applies to any new plat or certified survey map that is located wholly or partially within 300 feet of the right-of-way for Interstate 39/90/94, U.S. Highway 51, and/or State Highway 19. No such plat or certified survey map shall be entitled to approval unless the application demonstrates that the provisions of this section will be consistently met.

(2) HIGHWAY NOISE STANDARDS. For each plat or certified survey map subject to this section, and future development within such areas, the maximum exterior noise level within any outdoor living area shall not exceed 67 dB(A) at any time following the recording of the applicable plat or certified survey map.

(3) HIGHWAY NOISE MITIGATION PLAN. No application for approval of a final plat or certified survey map governed by this section and zoned for uses that might reasonably be expected to include at least one outdoor living area shall, if par. (d) applies, be deemed complete unless the Village Director of Public Services, or designee, has approved a Highway Noise Mitigation Plan for the affected lands. Such plan shall be prepared by a professional skilled in sound measurement and mitigation. The Highway Noise Mitigation Plan shall provide clear evidence that the noise standards in sub. (2) will be continuously met and shall contain all of the following elements:

(a) Map. A map depicting and labeling the plat or certified survey map area and all lands and highway rights-of-way within 300 feet thereof, existing topography, existing vegetation, existing parcel lines, proposed lot lines within the plat or certified survey map area, and proposed or likely locations of outdoor living areas under the zoning designation as defined in §13.03.

(b) Current Noise Measurements. Noise measurements to quantify the existing noise levels, recorded within one year prior to Village approval of the final plat or certified survey map. Noise levels shall be measured by a professional skilled in sound measurement and mitigation, on non-holiday weekdays between 4:00 p.m. and 6:00 p.m., and in no less than 5 minute continuous time blocks at each outdoor living area, or at a representative sample of such outdoor living areas as approved by the Director of Public Services.

(c) Future Noise Level Projections. Calculations showing anticipated future noise levels at each of the proposed outdoor living areas (or sample thereof if approved by the Director of Public Services) at 10 years and 20 years following the expected recording date of the plat or certified survey map, based on projected traffic increases on nearby highways. If the subdivider is not required to provide a traffic study under this chapter, and a traffic study has not otherwise been completed, traffic projections shall be based on WisDOT forecasts or such other available information as may be approved by the Director of Public Services.

(d) Noise Mitigation Approach. If the current or projected future noise levels at any proposed outdoor living area (or sample thereof if approved by the Director of Public Services) under subs. (b) or (c) exceed the applicable standard under sub. (2), above, the Noise Mitigation Plan shall include:

1. An overview of different noise mitigation options that would enable compliance with the standard under sub. (2). To mitigate noise below threshold levels at proposed outdoor living areas, mitigation options may include enforceable restrictions on the

location of outdoor living areas, other changes in site orientation or topography, adjustments to permissible building layouts, or noise barriers. Walls or fences shall not be used as noise barriers, unless approved by the Planning and Zoning Commission.

2. A detailed description and/or representation of the type, height, length, location, and character of the subdivider's proposed noise mitigation option from among those options analyzed.

(e) Implementation Timetable. A description and proposed timetable for implementation of all proposed sound mitigation measures, including how the subdivider intends to meet the implementation requirements of this section.

(4) IMPLEMENTATION.

(a) Following approval of the Highway Noise Mitigation Plan by the Director of Public Services or his or her designee, the subdivider shall install all approved noise mitigation measures prior to or concurrent with infrastructure construction within the applicable development phase(s) of the plat or certified survey map.

(b) Upon completion of construction of all noise mitigation measures specified under par. (a) and prior to the issuance of any building permits within the plat or certified survey map area, the subdivider shall submit a written report to the Director of Public Services. The report shall be prepared by a professional skilled in sound measurement and mitigation, and shall indicate as-built noise levels at all permissible outdoor living areas for which measurements were taken in the Highway Noise Mitigation Plan per the same procedure used under sub. (3)(b). In the event that such report indicates that any outdoor living areas do not meet the noise standard under sub. (2), the subdivider shall implement additional mitigation measures to meet the standard.

(c) The subdivider or a property owners' association shall install and maintain all noise mitigation measures in perpetuity, unless otherwise agreed to by the Village. Perpetual maintenance responsibilities shall be included within covenants prepared by the subdivider, approved by the Village, and recorded against the plat or certified survey map area.

[Am. 11-21, Eff. 6-10-11; Am. 15-33, Eff. 07-07-15]

13.04 JURISDICTION. This chapter shall apply to all lands within the corporate limits of the Village, as well as in the Village's extraterritorial jurisdiction. The provisions of this chapter, as they apply to divisions of tracts of land into less than 5 parcels, shall not apply to:

(1) Transfers of interest in land by will or pursuant to court order.

(2) Leases for a term not to exceed 10 years, mortgages, or easements.

(3) Sale or exchange of parcels of land between owners of adjoining property if additional lots are not thereby created and the lots resulting are not reduced below the minimum size required by these regulations, the Zoning Code, or other applicable laws or ordinances.

[Am. 11-21, Eff. 6-10-11]

13.05 COMPLIANCE. No person shall divide any land subject to this chapter in any manner which results in a subdivision, land division, or a replat; no such subdivision, land division or replat shall be entitled to be recorded; and no street shall be laid out or improvements made to land without compliance with all requirements of this chapter that are in effect when a subdivider submits a preliminary plat or certified survey map, and the following:

- (1) All provisions of the Wisconsin Statutes, including Ch. 236 and §80.08, *Wis. Stats.*
- (2) Applicable state agency rules, including but not limited to those of the Wisconsin Departments of Natural Resources, Transportation, and Safety and Professional Services.
- (3) The duly approved Village master plan, along with the Zoning Code, Official Map, and all other applicable ordinances of the Village that are in effect when the subdivider submits a preliminary plat or certified survey map.
- (4) Any applicable Village, town, and county ordinances that are in effect when the subdivider submits a preliminary plat or certified survey map.

[Am. 11-2, Eff. 6-10-11; Am. 15-37, Eff. 8-18-15; Am 19-007, Eff. 4-3-19]

13.06 LAND SUITABILITY.

(1) DETERMINATION OF UNSUITABILITY. No land shall be divided in a manner that would create any lot intended for development that is held unsuitable for development by the Village Board for reason of flooding; inadequate current or proposed drainage; adverse soil or rock formations, composition or conditions; negative impact on wetlands, waterways, or other sensitive natural resources; unfavorable topography; or any other feature likely to be harmful to the health, safety, or welfare of the future residents of the proposed land division or of the community. Development suitability or unsuitability shall be based on the results of a completed and accurate site assessment checklist (or similar document) and any attachments thereto, as normally required under Sections 13.21(4) and 13.31(4), and the Village's analysis of such materials. No land which is, or within the ten (10) years preceding the application for approval of the land division was, encumbered by a conservation easement or other restriction precluding development consistent with any farmland preservation plan or program shall be divided unless the easement or restriction is subject to termination by the Village Board and the Village Board determines that termination of the restriction is in the public interest. The Village Board, in applying the provisions of this subsection, shall record in its minutes the particular facts upon which it bases its conclusion that the land is not suitable for use and afford the subdivider an opportunity to present evidence regarding such unsuitability if he or she so desires. Thereafter the Board may affirm, modify or withdraw its determination of unsuitability.

[Am. 08-09, Eff. 3-14-08; Am. 11-21, Eff. 6-10-11; Am. 12-11, Eff. 7-27-12]

(2) TESTING. The Planning and Zoning Commission or the Village Board may require that borings and soundings be made in specified areas to ascertain subsurface soil, rock and water conditions, including depth to bedrock and depth to ground water table whenever deemed necessary by the committee to determine the suitability of a land division or any part thereof for development as proposed.

13.07 REQUIRED INFORMATION. All land divisions shall be subject to the requirements of this section.

(1) APPLICATION. No application for approval of a certified survey map or plat shall be complete or be deemed filed unless accompanied by the number of copies of all maps, plans, drawings, and related data as required under this chapter, along with the applicable

application fee. The time period within which the Village is required to act shall not begin to run until a completed application has been received.

[Recreated 13-13, Eff. 7-12-13; Am. 16-44, Eff. 11-16-16]

(2) PUBLIC IMPROVEMENT PLANS. The subdivider shall provide plans for all public improvements that are proposed or required under the applicable provisions of this chapter.
[Am. 13-13, Eff. 7-12-13]

(3) COVENANTS.

(a) At the time of final plat or certified survey map application, the subdivider shall submit protective covenants to be recorded against the affected land as follows:

[Am. 19-007, Eff. 4-3-19]

1. Where the subdivider proposes to provide for the private maintenance or protection of any common open space, storm water management facility, drainageway, private road or other required public or private improvement, the covenants shall establish an enforceable method ensuring the proper maintenance and management of such space, facility, and/or improvement.

2. Where the subdivider proposes a residential subdivision, protective covenants shall impose standards or other means to effectively minimize monotony in the design of single-family and two-family (duplex) residences.

[Am. 15-37, Eff. 8-18-15]

3. Where the subdivider is required to install sound mitigation measures under §13.035, covenants shall ensure the construction and maintenance of those measures.

[Am. 15-37, Eff. 8-18-15]

4. In any other case as determined necessary by the Planning and Zoning Commission and required as a condition of development approval.

(b) In all cases where the requirements of this chapter are proposed to be satisfied or guaranteed by private covenants or restrictions, such covenants or restrictions shall contain provisions prohibiting the repeal or amendment of such covenants or restrictions without the written and recorded approval of the Village Board, and shall be expressly made enforceable by the Village. Unless the form of such covenants or restrictions is specified by the Village Board, the adequacy thereof shall be determined by the Zoning Administrator. All required deed restrictions and protective covenants shall be recorded prior to, or concurrently with, the final plat or certified survey map. The violation of any covenant or restriction required as a condition of approval of a land division shall be deemed a violation of this chapter.

[Sub. (2) Am. 11-21, Eff. 6-10-11]

(4) PROPERTY OWNERS' ASSOCIATION. Whenever a subdivider proposes that any common open space, storm water management facilities, drainageway, private road or other required development component is to be privately managed by a property owners' association, the Planning & Zoning Commission may require submission of a draft of the legal instruments and rules for proposed property owners associations at the time of submission of a proposed plat or certified survey map. If the Village Board approves the private maintenance of required development components by such an association, the organizational documents creating such organization shall be filed prior to, or concurrent with, the recording of the final plat or certified survey map and appropriate protective covenants pursuant to sub. (2) or a binding agreement between the Village and the association assuring such management shall be recorded with the plat or map.

(5) AREAS AFFECTED BY HIGHWAY TRAFFIC NOISE. Wherever a subdivider proposes a land division within an area described in §13.035(2), all information required by §13.035 must be submitted with the submittal of a preliminary plat.

[Cr. 06-07, Eff. 3-9-06; Am. 11-21, Eff. 6-10-11]

(6) TITLE REPORT. With each application for preliminary plat, final plat, or certified survey map approval, except for minor divisions as defined in §13.03(24m), the subdivider shall provide a 60 year title report for the land to be divided to verify clear title to the land and to identify existing easements and other encumbrances on the land. All such existing easements shall be delineated and labeled or notated on the plat or certified survey map.

[Cr. 12-11, Eff. 7-27-12; Repealed 15-37, Eff. 8-18-15; Recreated 19-007, Eff. 4-3-19]

13.08 FEES.

(1) APPLICATION FEES. Every applicant for a land division approval shall pay the Village all application fees as established by the Village Board from time to time by ordinance or resolution. The Village Board may waive all or a portion of the fee requirements in this section pursuant to the standards of §13.09.

[Am. 15-37, Eff. 8-18-15]

(2) FEES FOR REVIEW AND ADMINISTRATION. Every applicant shall pay, in addition to any applicable application fee, all of the following fees. Such fees shall be paid by the applicant within thirty (30) days of the date of an invoice from the Village. In the event fees are not paid in a timely manner, the Village shall not be required to take any further action with respect to the development approval. Non-payment of fees shall be deemed sufficient cause for rejection of the application or future applications from the same or a related applicant over all or part of the same land.

[Am. 15-37, Eff. 8-18-15]

(a) PROFESSIONAL CONSULTING FEES. The Applicant shall pay a fee equal to the actual cost to the Village for all planning, legal, engineering, and other professional services incurred by the Village in connection with the development approval, including any required inspections. The amount of the fee shall be based on the amount properly charged to the Village by outside consultants under the terms of the agreements between the Village and the consultants for all reviews, consultations and other work deemed necessary or appropriate by the Village.

[Am. 16-44, Eff. 11-16-16]

(b) TRAFFIC IMPACT ANALYSIS. In any case where the Village Engineer determines that the proposed development within a land division is likely to cause a significant impact on traffic on streets or highways beyond the proposed land division, the applicant shall pay the fees of a traffic engineer to be retained by the Village to complete and present a Traffic Impact Analysis following Wisconsin Department of Transportation District One guidelines, or shall retain a traffic engineer approved by the Village Engineer who shall prepare and provide such an analysis. Where the report of the analysis concludes that the proposed development will cause off-site public roads, intersections, or interchanges to function below Level of Service C, as defined by the Institute of Transportation Engineers, the Village may deny the application, require a size reduction in the proposed development, or require that the developer construct and/or pay for the share of required off-site improvements that is attributable to the development.

[Am. 15-37, Eff. 8-18-15; (2)(b) repealed 16-44, Eff. 11-16-16; (2)(c) renumbered to (2)(b) 16-44, Eff. 11-16-16]

(3) FEE ESCROWS. Except as provided in sub. (10), at such time as the applicant submits an application for a development approval, the applicant shall deposit with the Village, in escrow, the escrow amount established from time to time by the Village Board by ordinance or resolution. No application shall be deemed complete until the required escrow deposit is made.

(4) ESCROW REPLACEMENT. In the event that escrow deposit falls below twenty-five percent (25%) of the original amount required to be deposited, the Planning and Zoning Commission or the Village Board shall have the option to require the applicant to restore the escrow balance to the original amount required hereunder.

(5) ESCROW REFUNDS. In the event that funds remains in escrow over and above the Village's fees after withdrawal, approval or final denial of the application, or otherwise as provided in sub. (10), the remaining balance shall be refunded to the applicant. Notwithstanding the foregoing, the applicant may elect to apply any remaining balance to any escrow deposit required as part of a subsequent application for a development approval for the same project.

(6) ESCROW INTEREST The escrow account shall not bear interest for the benefit of the applicant.

(7) WITHDRAWALS FROM ESCROW. The Village Finance Director shall draw upon the escrowed funds to reimburse the Village for the fees it has incurred in reviewing the development approval on a monthly basis.

(8) ACCOUNTING. An accounting of all fees incurred by the Village and the status of the escrow shall also be provided to the applicant within thirty (30) days after each withdrawal. Any dispute with respect to the propriety or amount of any withdrawal shall be subject to appeal pursuant to Chapter 17 of this Code.

(9) DEFAULT. In the event that the subdivider defaults in restoring the escrow account, the Village shall not be required to act further upon the request. Failure to replenish the escrow account shall be sufficient cause to reject the application for development approval.

(10) EXCEPTION. No escrow deposit shall be required if the fees required by sub. (2) are guaranteed by the applicant, with adequate security, pursuant to a subdivider's or development agreement with the Village. At the time of execution of such an agreement, the Finance Director shall refund any remaining escrow balance to the applicant.

13.09 WAIVERS AND MODIFICATIONS. Where, in the judgment of the Village land division approval authority, the literal application of certain provisions of this chapter to a particular land division or development is unnecessary to achieve the intent and purpose of this chapter and would result in unnecessary hardship to the subdivider, or where a Village-approved planned unit development project suggests waiver or modification of certain provisions, the Village land division approval authority may waive or modify such provisions to the extent deemed just and proper and consistent with Wisconsin law. Such relief shall be granted only upon a finding by the land division approval authority that the waiver or modification will not result in any significant detriment to the public good nor conflict with the intent and purpose of this chapter or the desirable general development of the community in accordance with the master plan of the Village. A 2/3 vote of the entire membership of the land division approval authority shall be required to grant any waiver or modification to such provisions.

[Am. 12-11, Eff. 7-27-12; Am. 15-37, Eff. 8-18-15]

13.10 VIOLATIONS. It shall be unlawful to build upon, divide, convey, record, or monument any land in violation of this chapter or the Wisconsin Statutes and no person shall be issued a building permit by the Village authorizing the building on, or improvement of, any subdivision, land division or replat with the jurisdiction of this chapter not of record as of the effective date of this Code until the provisions and requirements of this chapter have been fully met. The Village may institute appropriate action or proceedings to enjoin violations of this chapter or the applicable Wisconsin Statutes.

13.11 PENALTIES.

(1) Any person who fails to comply with the provisions of this chapter shall, upon conviction thereof, forfeit not less than \$100 nor more than \$1,000 plus the costs of prosecution for each violation and, in default of payment of such forfeiture and costs, shall be imprisoned in the county jail until payment thereof, but not exceeding 6 months. Each day a violation exists or continues shall constitute a separate offense.

(2) Any person who shall record a plat without the required approvals shall be subject to forfeitures as provided in §236.30, *Wis. Stats.*

(3) Any person who shall convey any lot in unrecorded plats shall be subject to forfeitures as provided for in §236.31, *Wis. Stats.*

(4) Any person failing to place monuments or disturbing monuments in place in violation of §236.32, *Wis. Stats.* shall be subject to forfeitures as provided therein.

13.12 APPEALS. Any person aggrieved by an objection to a plat or a failure to approve a plat may appeal therefrom, as provided in §236.13(5) and 62.23(7)(e)10 to 15, *Wis. Stats.*, within 30 days of notification of the rejection of the plat. Where failure to approve is based on an unsatisfied objection, the agency making the objection shall be made a party to the action.

13.13 EXTRATERRITORIAL LAND DIVISION POLICIES. To the extent permitted under Wisconsin law, the following policies shall be applied in the Village's review of land divisions within its extraterritorial jurisdiction in order to protect rural character and farming viability, preserve future opportunities for orderly urban development and associated public utility extensions, ensure that land divisions will be provided with adequate public facilities and services, and implement the Village's master plan.

[Am. 15-37, Eff. 8-18-15]

(1) **DENSITY POLICY.** Land divisions within the extraterritorial jurisdiction shall be permitted where the cumulative development density will not exceed one lot for each thirty-five (35) acres of land owned within the extraterritorial jurisdiction as of January 1, 2007 (hereinafter, "the January 1, 2007 parcel") by the then-current property owner. The Village shall determine the land ownership configuration and property acreage as of January 1, 2007 using the most recent property records prior to January 1, 2007. All lots divided from the January 1, 2007 parcel following that date shall be counted against this density policy, except if the intended use is permanently restricted for open space purposes. The Village may waive or modify this density policy if conditions allowing for a waiver or modification under the provisions of Section 13.09 are or will be met, and one or more of the following circumstances is present:

(a) Lots being created to separate a pre-2007 farmstead from the remainder of the January 1, 2007 parcel shall not be counted against this density policy, unless the applicable Town comprehensive plan advises that such lots be counted.

(b) Where a land division of greater density is within an area identified in the Village's master plan, extraterritorial zoning ordinance, or both, for future development at a density in excess of one lot per thirty-five (35) acres, and public facilities at a level advised in the master plan for that area will be provided at the time of land division.

(c) Where a land division of greater density is in an area where such greater density is allowed or directed by an intergovernmental agreement or cooperative plan between the Village and Town.

(d) Where the applicable Town land division policy, as included in the Town's comprehensive plan or subdivision ordinance, is as strict or stricter than the density policy set forth in this section, the Village may elect to follow the Town's policy.

[Am. 15-37, Eff. 8-18-15]

(2) LOT AREA POLICY. In addition to the density policy in subsection (1), the minimum lot size within the extraterritorial jurisdiction shall be one (1) acre, except for lands over which the Village's master plan specifies a different minimum lot size or where the Village Board approves a zoning district that allows a smaller lot size.

[Cr. 06-61, Eff. 2-8-07; Am. 08-09, Eff. 3-14-08; Am. 08-12, Eff. 4-18-08; Ratified 08-20, Eff. 5-20-08; Am. 15-37, Eff. 8-18-15]

(3) APPLICATION OF DENSITY AND LOT AREA POLICIES. Each plat or certified survey map submitted for extraterritorial approval shall include or be accompanied by a map showing the entire parcel of land from which new lots would be created by the proposed land division and the January 1, 2007 parcel. In its application of the density and lot area policies contained herein, the Village may require lands included in the land division, the balance of the entire parcel from which the new lots would be created, or both, to be subject to a conservation easement or similar development limitation acceptable to the Village, and enforceable by the Village. A note shall be placed on the face of the plat or certified survey map indicating areas that are subject to any such development limitation.

[Am. 13-13, Eff. 7-12-13]

(4) ADEQUATE SERVICES. Notwithstanding any other provision of this chapter and except as otherwise expressly provided in an intergovernmental agreement, cooperative plan, or extraterritorial zoning ordinance between the Village and appropriate town, no land division shall be approved which would permit residential densities of greater than one dwelling unit per five (5) gross acres of land, unless a binding commitment has been made by the town in which the land division is located to provide such land with police protective services at service levels equal to or greater than those maintained by the Village from time to time, commencing not later than one (1) year after the date of approval of the land division, and continuing for such time as the development exceeds the density policy stated in this section.

(5) APPLICATION AND FEES. No person shall divide any land located within the Village's extraterritorial jurisdiction without first filing an application, meeting all submittal requirements, and paying the Village's standard land division review fees contained in this chapter. The timing for filing the application and paying the Village's review fees shall be the same as otherwise required for land divisions within the Village per Section 13.08.

[Cr. 06-12, Eff. 12-22-06]

SUBCHAPTER II – CERTIFIED SURVEY MAPS.

13.20 WHEN REQUIRED. Except for subdivisions as defined under §13.03(32), land divisions as defined under §13.03(20), consolidation of pre-existing lots, and any division of an existing block, lot, or outlot within a recorded subdivision without changing the boundaries of said block, lot or outlot, shall be accomplished by the recording of a certified survey map approved in accordance with §13.22.

[Am. 08-09, Eff. 3-13-08; Am. 08-12, Eff. 4-18-08; Ratified 08-20, Eff. 5-20-08; Am. 15-37, Eff. 8-18-15]

13.21 TECHNICAL REQUIREMENTS.

(1) **GENERAL.** A certified survey map shall be prepared by a registered land surveyor and shall comply in all respects with the requirements of Section 236.34, *Wis. Stats.* Each certified survey map shall also include the information listed in §13.31(1) to the extent determined applicable by the Zoning Administrator. If requested by the subdivider, the Village will accept and review a preliminary certified survey map, provided that:

(a) All the land included in the land division is within the Village's extraterritorial jurisdiction, and

(b) The preliminary certified survey map is professionally, accurately, and clearly drawn to a recognized scale, accurately depicting the existing and proposed parcel and lot boundaries.

If the Village approval authority designated in §13.22 approves a preliminary certified survey map under this subsection, the Village Zoning Administrator may approve a final certified survey map that complies in all respects with the requirements of Section 236.34, *Wis. Stats.*, and conforms with the preliminary certified survey map and any conditions of such approval.

[Am. 06-07, Eff. 3-9-06; Am. 12-15, Eff. 8-2-12; Am. 19-007, Eff. 4-3-19]

(2) **CERTIFICATES.** The surveyor shall certify on the face of the map that the map fully complies with all the provisions of this chapter. Upon Village approval of the map, and satisfaction of all applicable approval conditions, the Village Clerk shall certify Village approval on the face of the map.

[Am. 13-13, Eff. 7-12-13]

(3) **PRELIMINARY ENGINEERING PLANS.** Where public streets, public sanitary sewer main, water main, storm sewer, or other stormwater management features are required to serve the land proposed for division by a certified survey map, the subdivider shall prepare and submit one PDF copy and hard copies in a quantity determined by the Zoning Administrator of preliminary engineering plans with the certified survey map submittal, meeting the technical requirements of §13.31(3).

[Am. 08-09, Eff. 3-14-08; Am. 15-37, Eff. 8-18-15]

(4) SITE ASSESSMENT CHECKLIST.

(a) With the submittal of the certified survey map, the subdivider shall complete and submit a site assessment checklist on a form provided by the Zoning Administrator. The site assessment checklist shall include questions to the subdivider that are intended to discern information about the presence of, and impacts on, land, water, biological, historical and archaeological, energy, transportation, and communications resources on the property. Issues identified on the site assessment checklist shall be explained in detail by attaching maps and supportive documentation on the type, location, and extent of the identified feature and the

expected impact of the proposed land division on that feature and of that feature on the developability of the land.

[Am. 15-37, Eff. 8-18-15]

(b) Adjustments to the proposed land division to minimize or mitigate adverse impacts may be required. The completed site assessment checklist and any attached information, along with the Village's assessment of those materials, will be considered in the determination of the suitability of the land for division and compliance with other Village ordinance standards.

(c) The Zoning Administrator may waive the filing of a site assessment checklist for land divisions that involve fewer than two (2) acres in total area, will result in two (2) or fewer new lots, will divide land that has been subdivided in the last ten (10) years where a still-applicable site assessment checklist is on file with the Village, or will not result in any additional land development for the foreseeable future. The Zoning Administrator may also waive or modify the site assessment checklist requirement when such waiver or modification would meet applicable criteria in Section 13.09.

[Am. 08-09, Eff. 3-14-08; Am. 11-21, Eff. 6-10-11; Am. 12-11, Eff. 7-27-12]

(5) TREE PROTECTION AND PRESERVATION PLAN. Where the certified survey map area includes one or more mature woodlands or mature trees outside of a mature woodland, the subdivider shall prepare a Tree Protection and Preservation Plan including all of the components required by Section 13.31(5), and submit such plan to the Village as part of the certified survey map submittal, except that submittal or contents of such plan may be waived or modified by the Zoning Administrator under one or more of the following circumstances:

(a) The certified survey map would not allow for any additional development for the foreseeable future.

(b) The certified survey map would allow for only one new residential dwelling unit.

(c) If the certified survey map is within the extraterritorial jurisdiction and the subdivider submits clear evidence that the Village's tree preservation standards will be met under applicable town or county ordinance requirements or development approvals.

[Am. 08-09, Eff. 3-14-08; Am. 11-21, Eff. 6-10-11]

(6) OTHER APPLICABLE SUBMITTAL REQUIREMENTS. All applicable information required by Sections 13.07 shall be submitted with the certified survey map submittal for such submittal to be considered complete.

[Cr. 11-21, Eff. 6-10-11]

13.22 PROCEDURE FOR APPROVAL.

(1) APPLICATION. The subdivider shall file with the Zoning Administrator an application for approval along with nine (9) hard copies and a digital copy of the proposed certified survey map, a completed site assessment checklist on a form provided by the Zoning Administrator, and preliminary engineering plans and a tree protection and preservation plan if required under §13.21. The Zoning Administrator may reduce the number of hard copies required if the Village recommending and/or approval authorities do not require hard copies for their own use.

(2) REVIEW AND ACTION BY PLANNING AND ZONING COMMISSION. Except as provided under subs. (3) or (8), the Commission shall review the certified survey map for conformance with this chapter and all other applicable ordinances, rules, regulations, and Village master plan, and take action as follows:

(a) Any certified survey map that does not propose the dedication of any public land to the Village, includes only lands within the Village's extraterritorial jurisdiction, or both, shall be approved, conditionally approved or rejected, within sixty (60) days from the date of a complete application submittal, by the Commission.

[Am. 15-37, Eff. 8-18-15]

(b) The Commission shall recommend Village Board approval, conditional approval, or rejection of any certified survey map that proposes the dedication of public lands to the Village, within forty-five (45) days from the date of a complete application submittal. The Commission shall transmit such map along with its recommendations to the Village Board, including reasons for a recommended rejection or any conditions on a recommended approval.

(3) CSM REVIEW UNDER INTERGOVERNMENTAL AGREEMENTS. The Joint Committee shall function in lieu of the Planning and Zoning Commission under sub. (2) with respect to certified survey maps dividing lands within the Village's extraterritorial jurisdiction if, and to the extent, provided in an intergovernmental agreement between the Village and the town, and shall assure that all applicable requirements contained in the intergovernmental agreement are satisfied.

(4) VILLAGE BOARD APPROVAL. For certified survey maps governed by sub. (2)(b), except for minor land divisions under sub. (8), the Village Board shall within ninety (90) days from the date of a complete submittal, approve, conditionally approve or reject the certified survey map.

(5) REVIEW PERIODS AND EFFECT OF APPROVAL. The time period within which action on a certified survey map is required under subs. (2), (3), (4), and (8) shall not commence until the Village has received a complete application. An application shall be deemed complete only if accompanied by the required number of all maps, plans, drawings, and related data as required by this chapter, along with the applicable application fee. Such review periods may be extended by written agreement of the subdivider. If the approval authority designated under subs. (2), (3), (4), or (8) fails to act on such certified survey map within the indicated timeframe(s), the period of time has not been extended by agreement, and no unsatisfied objections have been filed within that period, the certified survey map shall be deemed approved, and upon demand, the Village Clerk shall apply a certificate to that effect on the face of the certified survey map. If the map is rejected or conditionally approved, the reasons for rejection or conditions of approval shall be stated in the minutes of the meeting or in the approval ordinance, and a written statement shall be forwarded to the subdivider.

[Am. 16-44, Eff. 11-16-16]

(6) RECORDATION. The subdivider shall record the certified survey map with the Dane County Register of Deeds within six (6) months of the date of its last approval and within twenty-four (24) months of the date of the first approval, or Village approval shall be deemed void. The subdivider shall promptly provide a copy of the recorded map to the Zoning Administrator.

(7) PRELIMINARY CERTIFIED SURVEY MAPS. If a preliminary certified survey map is filed in accordance with §13.21, the applicable provisions of subs. (1) through (5) hereof shall apply to the preliminary map. If the preliminary certified survey map is approved or conditionally approved, the Village Zoning Administrator shall review and either approve or reject a final certified survey map for the same property following within thirty (30) days after the date of its submission. The final certified survey map shall be approved if it is consistent with

the approved preliminary map in all material respects, and all technical requirements and conditions of approval have been satisfied. In all other cases, approval shall be denied.

(8) MINOR DIVISIONS. The Zoning Administrator may within twenty (20) days from the date of a complete submittal of a certified survey map that would result in a minor division, as defined in §13.03(24m), approve, conditionally approve or reject said map. The Zoning Administrator shall use the requirements included and referenced in this chapter as the sole basis for such action. The action of the Zoning Administrator is final, and the procedures in subs. (2), (3), and (4) shall not apply to such certified survey map, except in the following circumstances:

(a) The Zoning Administrator, within twenty (20) days of a complete submittal, may refer the certified survey map to the Planning and Zoning Commission or other recommending or approval authority under sub. (3); or

(b) The subdivider, within five (5) days of Zoning Administrator action, appeals such action to the Planning and Zoning Commission or other recommending or approval authority under sub. (3).

[Section Repl. & Recr. 13-13, Eff. 7-12-13, Am. 15-37, Eff. 8-18-15]

SUBCHAPTER III – SUBDIVISION PLATS.

13.30 PLATS REQUIRED.

(1) GENERAL PROVISIONS. A final plat prepared by a registered land surveyor and approved by the Village Board shall be required for all subdivisions. The final plat may, if permitted by the Village Board, consist of only that portion of the approved preliminary plat which the subdivider proposes to record at that time.

(2) PRELIMINARY PLAT REQUIRED. A preliminary plat shall be required for all subdivisions and shall be based upon a survey by a registered land surveyor and the plat prepared on paper of good quality at a scale of not more than 100 feet to the inch and shall satisfy all of the requirements of sec. 13.31.

13.31 TECHNICAL REQUIREMENTS.

(1) FEATURES TO BE INCLUDED ON PLAT. Every plat shall comply in all respects with the requirements of §236.20, *Wis. Stats.* The preliminary plat shall show correctly on its face, all of the following:

(a) Names and addresses of the owner, subdivider and land surveyor preparing the plat.

(b) The title under which the proposed subdivision is to be recorded.

(c) A complete legal description of the exterior boundaries of the proposed subdivision in metes and bounds, referenced to a corner established in a U. S. Public Land Survey and the total acreage encompassed thereby.

(d) Date, scale and north point.

(e) Contours at vertical intervals of not more than 2 feet. Elevations shall be marked on such contours based on National Geodetic Vertical Datum of 1929.

(f) Location and names of any adjacent subdivisions, parks and cemeteries, and owners of record of abutting unplatting lands.

(g) Locations of all existing property boundary lines, structures, drives, streams and watercourses, marshes, rock outcrops, wooded areas, railroad tracks and other similar significant features within the tract being subdivided or immediately adjacent thereto.

(h) Railroad rights of way within and abutting the plat.

(i) Water elevations of adjoining lakes and streams at the date of the survey and approximate high and low water elevations, all referred to National Geodetic Vertical Datum of 1929.

(j) Any proposed lake, stream or drainageway access with a small drawing clearly indicating the location of the proposed subdivision in relation to the access.

(k) Any proposed lake, stream or drainageway improvement or relocation.

(l) The location, right of way width and names of all existing streets, pedestrian paths, alleys or other public ways, easements, railroad and utility rights of way and all section and quarter section lines within the exterior boundaries of the plat or immediately adjacent thereto.

(m) The location, width and names of all proposed streets and public rights of way such as alleys, pedestrian paths and easements.

(n) The proposed length of right of way lines, and proposed names for all proposed new streets or extensions of existing streets.

(o) Exact street widths along the line of any obliquely intersecting street.

(p) The location and description of all existing and proposed easements.

[Am. 19-007, Eff. 4-3-19]

(q) A description of the types of proposed uses of all lots created by the subdivision.

(r) The location, size and approximate dimensions of any sites to be:

1. reserved or dedicated for parks, playgrounds, drainageways or other public use;
2. used for group housing, shopping centers, church sites or other nonpublic uses; or
3. reserved for the common use of property owners within the plat.

(s) Special restrictions required by the Village Board relating to access control along public ways or provisions for planting strips.

(t) The approximate dimensions of all lots and outlots together with proposed lot and block numbers. All lots shall be consecutively numbered.

(u) Approximate centerline radii of all curves.

(v) Existing zoning on and adjacent to the proposed subdivision.

(w) Corporate limits lines.

(x) Certification on the face of the plat by the surveyor preparing the plat that it is a correct representation of all existing land divisions and features and that he or she has fully complied with the provisions of this chapter.

(y) All vision triangles shall be clearly shown on arterial and collector roads designed in accordance with current AASHTO Policy on Geometric Design.

[Am. 15-37, Eff. 8-18-15]

(z) The boundaries of all wetlands, floodplains, environmental corridors, and shoreland zones and setback areas, as established under municipal, county, regional, state, and federal laws, regulations, plans, or ordinances.

[Am. 08-09, Eff. 3-13-08]

(aa) The location and dimensions of all structures, facilities or features proposed as part of all noise mitigation strategies, along with the submittal of a Noise Study, if required under §13.035.

[Cr. 06-07, Eff. 3-9-06]

(bb) The outer edges of all mature woodlands and parts of mature woodlands within the plat area, and the locations and species of all mature trees that are not located within a mature woodland as defined in §13.03.

[Cr. 08-09, Eff. 3-14-08; Am. 11-21, Eff. 6-10-11]

(2) In addition to the requirements of sub. (1), two copies of each proposed plat shall be filed with the Zoning Administrator showing on its face the following additional information:

[Am. 12-11, Eff. 7-27-12]

(a) The current zoning district designation of each lot and, if a rezoning request is pending or proposed, the proposed zoning classifications;

(b) All building setback lines required by the Zoning Code. If rezoning is pending, only the setback lines required by the proposed district regulations for each lot shall be shown.

(3) PRELIMINARY ENGINEERING PLANS. With the submittal of the preliminary plat, the subdivider shall submit five (5) copies of preliminary engineering plans, including the following:

(a) Preliminary street profiles showing existing and proposed centerline elevations. Profiles shall be shown for a minimum distance of 300 feet beyond the plat boundaries where future street extensions may be planned.

(b) Preliminary utility layouts, including sanitary sewer, water main, and storm sewer, and indication of any expected need for improvements to existing facilities to provide for such utility needs.

(c) Preliminary stormwater calculations, in order to demonstrate that adequately sized and positioned areas have been reserved for storm water management on the preliminary plat.

(d) A preliminary engineering plan map at least covering the area of the preliminary plat and showing the features described in this subsection, along with property lines, contours at vertical intervals of not more than 2 feet for the portion of the plat or CSM proposed for disturbance or development, and applicable environmental features such as wetlands and floodplains. [Cr. 08-09, Eff. 3-14-08]

(4) SITE ASSESSMENT CHECKLIST. (a) With the submittal of the preliminary plat, the subdivider shall complete and submit a site assessment checklist on a form provided by the Zoning Administrator. The site assessment checklist shall include questions to the subdivider that are intended to discern information about the presence of, and impacts of on, land, water, biological, historical and archaeological, energy, transportation, and communications resources on the property. Issues identified on the site assessment checklist shall be explained in detail by attaching maps and supportive documentation on the type, location, and extent of the identified feature and the expected impact of the proposed land division on that feature and of that feature on the developability of the land.

(b) Adjustments to the proposed land division to minimize or mitigate adverse impacts may be required. The completed site assessment checklist and any attached information will be considered in the determination of the suitability of the land for division and compliance with other Village ordinance standards.

(c) The Zoning Administrator may waive the filing of a site assessment checklist for land divisions that would result in two (2) or fewer new lots, involve fewer than two (2) acres in total area, will divide land that has been subdivided in the last ten (10) years where a still-applicable site assessment checklist is on file with the Village, or will not result in any additional land development in the foreseeable future. The Zoning Administrator may also waive or modify the site assessment checklist requirement when such waiver or modification would meet applicable criteria in Section 13.09.

[Cr. 08-09, Eff. 3-14-08; Am. 11-21, Eff. 6-10-11; Am. 12-11, Eff. 7-27-12]

(5) TREE PROTECTION AND PRESERVATION PLAN. Where the plat area includes one or more mature woodlands, or one or more mature trees outside of a mature woodland, the subdivider shall prepare a Tree Protection and Preservation Plan, and submit such plan to the Village along with the preliminary plat submittal, except that the submittal or contents of such plan may be waived or modified by the Zoning Administrator under one or more of the following circumstances:

(a) The plat would not allow for any additional development for the foreseeable future.

(b) The plat would allow for only one new residential dwelling unit.

(c) If the plat is within the extraterritorial jurisdiction and the subdivider submits clear evidence that the Village's tree preservation standards will be met under applicable town or county ordinance requirements or development approvals.

When required, the Plan shall include the following components:

(a) The outlines of mature woodlands and mature trees that are outside of a mature woodland.

(b) Specific strategies to preserve native, non-invasive trees to the extent practical during general grading and installation of public improvements within the proposed land

division, including structural solutions and alterations included within the preliminary plat layout and/or grading plan.

(c) If more than 30% of a mature woodland (or more than 30% of that part of a mature woodland within the plat area) will be removed during the land division process, a plan showing locations and species for additional tree plantings within the plat area to compensate, on an acre-for-acre basis, for all acreage of mature woodlands proposed for removal above the 30% removal standard. All such additional trees shall be at least 1 inch caliper.

(d) If more than 30% of mature trees outside of mature woodlands will be removed during the land division process, a plan for additional tree plantings within the plat area to compensate, on a 2-to-1 basis, for all mature trees proposed for removal above the 30% removal standard. All such additional trees shall be at least 3 inch caliper.

(e) All requirements for tree installation under this section shall be in addition to other tree installation requirements of this chapter and of the Zoning Code.

[Cr. 08-09, Eff. 3-14-08; Am. 11-21, Eff. 6-10-11]

(6) COPIES TO UTILITY PROVIDERS AND STATE AGENCIES.

(a) Before the filing of the final plat, the subdivider shall also provide a copy of the preliminary plat and preliminary engineering plans to all local utility providers, including natural gas, telephone, cable television, other telecommunications, and electric utilities, so that they may identify appropriate locations for facilities and easements to be indicated on the final plat.

(b) The subdivider shall be responsible for providing each preliminary and final plat to State, County, and other agencies as may be required by Chapter 236, Wis. Stats. and other applicable law.

[Cr. 08-09, Eff. 3-14-08; Am. 12-11, Eff. 7-27-12]

(7) OTHER APPLICABLE SUBMITTAL REQUIREMENTS. All applicable information required by Sections 13.07 shall be submitted with the preliminary plat submittal for such submittal to be considered complete. [Am. 11-21, Eff. 6-10-11]

13.32 PROCEDURE FOR APPROVAL.

(1) PRELIMINARY PLAT APPROVAL. (a) Pre-Application and Concept Plan. Prior to the filing of an application for approval of a preliminary plat, the subdivider shall consult with, and submit a concept plan map to, the Village Zoning Administrator. The concept plan map shall include all contiguous land owned or controlled by the subdivider; depict the general layout of the proposed subdivision, including existing and proposed building sites, roads, major public utilities, open spaces, and general proposed land use patterns; and represent relationships to nearby properties and land uses. The concept plan map may rely on and refer to detailed neighborhood development plans prepared by or for the Village to provide direction on proposed layout. The Zoning Administrator shall refer the concept plan map to the Joint Committee in order to obtain its advice and assistance if all of the following are applicable: the proposed plat area is within the Village's extraterritorial jurisdiction, the Zoning Administrator does not anticipate the area will be annexed to the Village prior to final plat approval, and the Village has entered into an intergovernmental agreement with the town designating the Joint Committee as a review agent for such plats. In all other instances, the Zoning Administrator shall refer the concept plan map to the Village Planning and Zoning Commission in order to obtain its advice and assistance. In the event the concept plan map depicts a land division or development inconsistent with the Village master plan or raises significant issues of interpretation with

respect to its consistency with the master plan, the Zoning Administrator shall also refer the concept plan map to the Village Board.

[Am. 15-37, Eff. 8-18-15; Am. 19-013, Eff. 7-26-19]

(b) Preliminary Plat Submittal. Following Planning and Zoning Commission or Joint Committee review of a concept plan map, the applicant may file an application for preliminary plat approval including ten (10) hard copies and a digital copy of the preliminary plat and all supplemental materials meeting the requirements of §13.30(2) and §13.31. The Zoning Administrator may reduce the number of hard copies required if the Plan Commission and/or Village Board elects not to require hard copies for their use.

(c) Referral of Preliminary Plat. The Zoning Administrator shall provide copies of the Preliminary Plat and supplemental materials to Public Works; Parks, Recreation and Natural Resources; and Public Safety staff for their comments and recommendations. Such staff members may refer the plat to the appropriate Village committee(s) for review if they determine that the plat raises significant issues affecting matters within the scope of the functions of that committee or if requested by the subdivider.

(d) Village Planning and Zoning Commission Recommendation. Except as provided under subsection (e), the Planning and Zoning Commission shall review the plat for conformance with applicable plans, ordinances, and statutes and shall forward its recommendation on the preliminary plat to the Village Board. The Commission's recommendation shall be to approve, approve with conditions, or reject the plat and shall include the reasons for rejection or the imposition of conditions.

(e) Preliminary Plat Review Under Intergovernmental Agreements. The Joint Committee shall function in lieu of the Planning and Zoning Commission under par. (d) with respect to preliminary plats within the Village's extraterritorial jurisdiction, if, and to the extent, provided in an intergovernmental agreement between the Village and the town in which the plat is located.

(f) Village Board Action. The Village Board shall, within ninety (90) days of the date of the filing of a complete preliminary plat application, approve, approve conditionally or reject the preliminary plat, unless the time is extended by mutual agreement with the subdivider. The Village Clerk shall then return one copy of the plat to the subdivider with the date and action endorsed thereon and if approved conditionally or rejected, a copy of the ordinance setting forth the conditions of approval or a letter setting forth the reasons for rejection shall accompany the plat. One copy of the plat and letter shall be placed in the permanent files of the Village. Failure of the Village Board to act within ninety (90) days of a complete application shall constitute an approval, unless the time is extended by mutual agreement with the subdivider.

(g) Expiration of Approval. Approval of a preliminary plat shall expire thirty-six (36) months after the date of approval or conditional approval by the Village Board, unless within such period a complete application for final plat approval for the preliminary plat area is filed as provided in sub. (2) or the Village Board extends the timeframe for submittal of one or more final plats within the preliminary plat area.

(2) FINAL PLAT APPROVAL.

(a) Pre-Application Consultation and Application. Following the submittal of the preliminary plat, the subdivider shall file an application for final plat approval including ten (10) hard copies and a digital copy of the final plat, and such other materials and fees as required for a complete final plat submittal under this chapter and under Chapter 236, Wis. Stats. to the

Zoning Administrator. The Zoning Administrator may reduce the number of hard copies required if the Planning and Zoning Commission and/or Village Board elects not to require hard copies for their use. The Zoning Administrator may allow the subdivider to submit a final plat application in conjunction with the filing of a preliminary plat application provided that:

1. The applicant provides a written agreement to extend the review time under par. (e) below to a date not earlier than the review deadline determined under sub. (1)(f), and
 2. The combination of the preliminary and final plat review stages will not compromise the Village's ability to effectively review the plat against the requirements of this chapter.
- [Cr. 15-37, Eff. 8-18-15]

(b) Technical Review. The Zoning Administrator or designee shall provide required review and approval bodies under this chapter with (i) his or her conclusions as to whether the final plat conforms substantially to the preliminary plat and Village ordinances and (ii) a recommendation on approval of the final plat. The conclusions and recommendation shall be part of the record of the proceedings at which the final plat is being considered.

(c) Village Planning and Zoning Commission Recommendation. Except as provided under par. (d), the Planning and Zoning Commission shall review the plat for conformance with the approved preliminary plat, conditions of its approval, and all applicable ordinances and statutes, and shall forward its recommendation to the Village Board. The Commission's recommendation shall be to approve, approve with conditions, or reject the plat and shall include the reasons for rejection or conditions associated with any recommendation for approval.

(d) Final Plat Approval under Intergovernmental Agreements. The Joint Committee shall function in lieu of the Planning and Zoning Commission under par. (c) with respect to final plats if, and to the extent, provided in an intergovernmental agreement between the Village and the town in which the plat is located.

(e) Village Board Action. The Village Board shall, within sixty (60) days of a complete final plat submittal, approve, conditionally approve, or reject such plat, unless the time is extended by mutual agreement with the subdivider. If the plat is rejected, the reasons shall be stated in the minutes of the meeting and a written statement of the reasons forwarded to the subdivider. Upon failure of the Village Board to act within sixty (60) days, the time having not been extended and no unsatisfied objections having been filed, the plat shall be deemed approved.

(f) Recordation. After the final plat has been approved or conditionally approved by the Village Board; all conditions imposed by that approval have been satisfied; and the subdivider has verified that copies were forwarded to objecting agencies as required by law, the date thereof, and that no objections have been filed within twenty (20) days or, if filed, have been satisfied, the Village Clerk shall cause the certificate inscribed upon the plat attesting to such approval to be duly executed and the plat returned to the subdivider for recording with the Dane County Register of Deeds. The plat shall be submitted for recording within twelve (12) months from the date of the last approval and within thirty-six (36) months from the date of the first approval, or the Village approval shall be deemed void.

(3) REPLATS. When it is proposed to replat a recorded subdivision or certified survey may, or parts thereof, the subdivider shall meet §236..36, *Wis. Stats.* as applicable and proceed as specified in subs. (1) and (2). [Section Repl. & Recr. 13-13, Eff. 7-12-13; Am. 20-16, Eff. 6-3-20]

13.33 CERTIFICATES. All final plats shall include all the certificates required by §236.21, Wis. Stats.; and, in addition, the surveyor shall certify that the plat fully complies with all of the provisions of this chapter.

13.34 COPIES OF RECORDED PLAT. Within one month of the final plat being recorded by the Dane County Register of Deeds, the subdivider shall provide two (2) copies of the plat and a digital version of the plat referenced to the Dane County Coordinate System in an AutoCad compatible format, to the Public Works and Economic Development/Planning Departments.

SUBCHAPTER IV – PUBLIC IMPROVEMENT STANDARDS.

13.40 STREETS. All proposed streets in any subdivision or other land division within the Village shall be designed and constructed as provided in this section and as specified on the Village standard specifications, Village design guidelines, or industry best practices, available from the Director of Public Services. The access control standards contained in §15.07(7) of the Zoning Code shall be satisfied by all subdivision plats and certified survey maps within the jurisdiction of this chapter, except as otherwise provided in an intergovernmental agreement between the Village and a town in which the land division is located.

[Am. 08-09, Eff. 3-14-08; Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(1) STREET ARRANGEMENT.

(a) General Provisions. Street layouts shall conform to the arrangement, width and location indicated on the official map, master plan, component neighborhood development plan of the Village or any applicable Preliminary Development Plan. In areas for which such plans have not been completed, the street layout shall recognize the functional classification of the various types of streets and shall be developed and located in proper relation to existing and proposed streets, to the topography, to such natural features as streams and tree growth, to public convenience and safety, to existing and proposed utilities, to the proposed use of the land to be served by such streets, and to the most advantageous development of adjoining areas. The subdivision or land division shall be designed so as to provide each lot with satisfactory access to a public street.

(b) Collector Streets. Collector streets shall be arranged so as to provide ready collection of traffic from residential areas and conveyance of this traffic to the arterial street and highway system and shall be properly oriented to special traffic generators such as schools, churches and shopping centers and other concentrations of population and to the major streets into which they feed.

(c) Minor Streets. Minor streets shall be arranged to conform to the topography, to discourage use by through traffic, to permit the design of efficient storm and sanitary sewerage systems, and to require the minimum street area necessary to provide safe and convenient access to abutting property.

(d) Proposed Streets. Proposed streets shall extend to the boundary lines of the tract being subdivided unless prevented by topography or other physical conditions or unless, in the opinion of the Village Board, such extension is not necessary or desirable for the coordination of the layout of the subdivision or land division or for the advantageous development of the adjacent tracts.

(e) Reserve Strips. Reserve strips shall not be provided on any plat to control access to streets or alleys, except where control of such strips is granted to the Village under conditions approved by the Village Board.

(f) Alleys. Alleys may be provided in commercial and industrial districts and as permitted in an approved preliminary development plan for PUD districts, for off-street loading and service access. Dead-end alleys shall not be permitted and alleys shall not connect to a major thoroughfare.

(g) Street Names.

1. All proposed street names shall be subject to approval by the Village Board in its discretion.
2. Street names shall not duplicate or be similar to the names of any other existing street and existing street names within the DeForest Fire/EMS Area or shall otherwise confuse or confound the traveling public and logical street addressing.
3. The same street name shall be projected to extensions of the same street, except where approved by the Village Board, such as in cases where the extension crosses an arterial street.

[Am. 11-21, Eff. 6-10-11]

(2) LIMITED ACCESS HIGHWAY AND RAILROAD RIGHTS OF WAY. Whenever a proposed subdivision or land division contains or is adjacent to a limited access highway or railroad right of way, the design shall provide the following treatment:

(a) When lots within a proposed commercial subdivision or land division back upon the right of way of an existing or proposed limited access highway or railroad right of way, a planting strip of at least 30 feet in depth shall be provided adjacent to the highway or railroad. Such planting strip shall be part of the platted lots, but shall be in addition to the required minimum lot depth. Planting strips shall be labeled on the face of the plat or certified survey map with the following restriction: "This strip reserved for the planting of trees and shrubs. No structures are permitted, except as approved by the Village Board."

[Am. 11-21, Eff. 6-10-11]

(b) When lots within a proposed residential subdivision or land division back upon the right-of-way of an existing or proposed limited access highway or railroad right-of-way, a low-maintenance landscaped berm shall be designed and constructed at the subdivider's expense according to plans approved by the Director of Public Services. Required landscaping berms shall extend at least five (5) feet above the elevation of the centerline of the adjacent right of way and not less than thirty (30) feet in width along the entire frontage adjacent to such right of way. The requirements of this subsection may be modified by the Village where an alternative plan for noise mitigation along such highway or railroad right-of-way is approved under §13.035.

[Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(c) Streets parallel to a limited access highway or railroad right of way, at the point of their intersection with a major street and highway or collector street which crosses said railroad or highway, shall be located at a minimum distance of 250 feet from said highway or railroad right of way.

(d) Minor streets parallel to railroad rights of way shall be located such that the back of the curb line is not less than fifteen feet (15') from such right of way. Minor streets in residential

areas which are parallel to arterial streets or controlled access highways shall be located such that the rights of way are separated by not less than 150 feet.

(3) STREET DESIGN STANDARDS. The minimum right of way and roadway width of all proposed streets and alleys shall be as specified by the master plan, official map, Village adopted neighborhood development plan or applicable PUD Preliminary Development Plan or Final Development Plan. If no width is specified therein, the minimum widths shall be as follows:

[Am. 15-37, Eff. 8-18-15]

(a) Street Widths. The following minimum widths shall be provided for all public streets. The specified width shall be increased as determined by the Planning & Zoning Commission if on-street bike lanes are shown as part of the Village master plan.

[Am. 08-09, Eff. 3-14-08; Am. 08-12, Eff. 4-18-08; Ratified 08-20, Eff. 5-20-08; Am. 15-37, Eff. 8-18-15]

TYPE OF STREET	R.O.W. WIDTH TO BE DEDICATED*	PAVEMENT WIDTH*
Arterial Streets	80+ feet	56 feet F/F
Collector Streets	70 feet	40 feet F/F
Minor Streets	66 feet	32 feet F/F
Alleys	20 feet	10 to 20 feet
Multiuse Paths	20 feet	10 feet
Pedestrian Ways	10 feet	5 feet

NOTES: * "F/F" means face to face of opposite curbs. The Village Board may authorize standard rights-of-way or street pavement widths less than those specified in this table in or along predominantly single family subdivisions with densities of less than 4 dwelling units per acre and/or where parking will be restricted to one side of the street.

(b) Cul-de-sacs. The use of cul-de-sac streets is only allowed when necessitated by exceptional topography, to minimize environmental impact or other limiting factors of good design. When allowed, cul-de-sac streets within the Village limits shall terminate in a circular turn-around having a minimum right-of-way radius of 60 feet and a minimum inside curb radius of 45 feet, and shall not exceed 500 feet in length within the Village limits and 1,000 feet in length within the extraterritorial jurisdiction.

[Am. 06-07, Eff. 3-9-06]

(c) Temporary Dead-ends or Cul-de-sacs. Temporary dead-ends or cul-de-sacs shall not exceed 1,600 feet in length (or longer if approved by the Director of Public Services where a second point for emergency access will be provided) and shall meet all of the standards listed in subparagraphs 1 through 3, below. [Am. 11-21, Eff. 6-10-11]

[Am. 11-21, Eff. 6-10-11; Am. 19-007, Eff. 4-3-19]

1. A temporary turnaround is required if the street serves more than one lot on either side of the street.
2. A temporary "T" turnaround is required if the distance from the centerline of the nearest street intersection to the farthest lot line of the last lot of the applicable construction phase is 400 feet or less. The "T" turnaround shall have a minimum width of 24 feet, a minimum transverse length of 60 feet, a minimum radius of 10 feet and be surfaced with 2 inches of bituminous asphalt over a 10 inch stone base.

3. Either a temporary "T" or temporary circular turnaround shall be required as determined by the Director of Public Services when the closed end of a dead-end street is not visible from the nearest intersection or when the distance from the centerline of the nearest intersecting street to the farthest lot line of the last lot in the construction phase is greater than 400 feet. A temporary "T" turnaround shall be constructed as specified in par. (c)2. Circular turnarounds shall have a minimum radius of 40 feet and be surfaced with 2 inches of bituminous asphalt over a 10 inch stone base.

[Am. 06-07, Eff. 3-9-06; Am. 15-33, Eff. 07-07-15]

(d) Street Grades. Street grades shall be established wherever practicable so as to avoid excessive grading, the excessive removal of ground cover the tree growth, and general leveling of the topography. Unless a greater grade is determined necessary by the Director of Public Services due to exceptional topography subject, the maximum centerline grade of any street or public way shall not exceed the following:

1. Collector Streets. 6-8%
2. Minor Streets, Alleys and Frontage Streets. 10%
3. Pedestrian Ways. 12:1 unless landings of acceptable design are provided. Conformance with ADA requirements is required unless accessibility cannot reasonably be achieved. Proper signage shall be provided in this situation.

The grade of any street shall in no case exceed 12% or be less than 1/2 of one percent (0.5%).

[Am. 15-33, Eff. 07-07-15]

(e) Half Streets. Where an existing dedicated or platted half street is adjacent to the tract being divided, the other half of the street shall be dedicated by the subdivider. The platting of half streets shall not be permitted unless determined necessary by the Village Board to avoid an unreasonable hardship.

(4) STREET INTERSECTIONS.

(a) Streets shall intersect each other at as nearly right angles as topography and other limiting factors of good design permit, and all intersections shall be designed to provide adequate visibility and safety for motorists, bicyclists and pedestrians using such streets.

(b) The number of streets converging at one intersection shall not exceed 2 unless otherwise approved by the Village Board.

(c) The number of intersections along arterial streets shall be held to the minimum practicable. The distance between such intersections shall not be less than 600 feet unless necessitated by exceptional topography or other limiting factors of good design.

(d) Property lines at street intersections shall be rounded with a minimum radius of 15 feet or of a greater radius when deemed necessary by the Village Board to provide for safe and efficient traffic movements.

(e) Minor streets need not continue across arterial or collector streets, but if the centerline of two minor streets approach the major streets from opposite sides within 150 feet

of each other, measured along the centerline of the arterial or collector street, then the location shall be adjusted such that the alignment across the major or collector street is continuous, and a jog is avoided.

(5) DRIVEWAYS, ACCESS CONTROL, AND VEHICULAR SIGHT DISTANCE. All applicable requirements within Section 15.07(7) of the DeForest Municipal Code shall be met in the design of the plat or certified survey map.

[Cr. 11-21, Eff. 6-10-11]

13.41 BLOCKS.

(1) GENERAL PROVISIONS. The widths, lengths and shapes of blocks shall be suited to the planned use of the land, the applicable zoning requirements, the need for convenient access, control and safety of street traffic and the limitations and opportunities of topography.

(2) LENGTH. Blocks in residential areas shall not be less than 600 feet nor more than 1600 feet in length unless necessitated by exceptional topography or other limiting factors of good design.

[Am. 11-21, Eff. 6-10-11]

(3) PEDESTRIAN WAYS. Pedestrian ways not less than 10 feet in width may be required near the center and entirely across any block over 900 feet in length where deemed reasonably necessary by the Village Board to provide adequate pedestrian circulation or access to schools, parks, playgrounds, shopping center, churches or transportation facilities.

(4) WIDTH. Blocks shall have sufficient width to provide for 2 tiers of lots of appropriate depth except where otherwise required to separate residential development from through traffic. The width of lots or parcels reserved or laid out shall be adequate to provide for off-street service and parking required by the use contemplated and the area zoning restrictions for such use.

13.42 LOTS.

(1) GENERAL PROVISIONS. The size, shape and orientation of lots shall comply with all of the dimensional standards set forth in the Zoning Code and shall be appropriate for the location of the land division and for the type of development and use contemplated. The lots shall be designed to provide an aesthetically pleasing building site and a proper architectural setting for the buildings contemplated.

(2) SIDE LOT LINES. Side lot lines shall be at right angles to straight street lines or radial to curved street lines on which the lots face. Lot lines shall follow municipal boundary lines rather than cross them.

(3) DOUBLE FRONTRAGE AND REVERSE FRONTRAGE LOTS. Double frontage and reverse frontage lots shall be prohibited except where necessary to provide separation of residential development from through traffic or to overcome specific disadvantages of topography and orientation.

(4) ACCESS. Every lot shall front or abut on a public street, unless the Village Board shall approve the use of private streets for such access. Private streets shall not be permitted unless adequate provisions are made for permanent public street access to and from all units to be served by such street and for adequate maintenance and repair of the improvements

within the right of way of such street. In any case where more than one lot or occupancy unit is served by a private street, the Village shall have full regulatory authority to control of traffic and parking on and adjacent thereto to the same extent as if the street were dedicated to the public.

(5) CORNER LOTS. Corner lots shall have an extra width of 10 feet to permit adequate building setbacks from side streets.

(6) REMNANTS. All remnants of lots which do not meet the minimum size for lots as required by the Zoning Code after a larger tract is subdivided shall be added to adjacent lots unless other provisions are made and approved by the Village Board to convert such remnants into usable parcels.

(7) NO SPLIT ZONING OF LOTS. All new lots created by certified survey map or plat shall be entirely within one base zoning district at the time of recording. The boundaries of overlay zoning districts may follow the edges of natural features, pre-defined buffers, or other features they are intended to represent.

[Cr. 11-21, Eff. 6-10-11]

13.43 EASEMENTS.

(1) UTILITY EASEMENTS. The subdivider shall provide utility easements of widths deemed adequate by the Director of Public Services for the intended purpose where necessary or advisable for electric power and communication poles, wires and conduits; storm and sanitary sewers; and gas, water and other utility lines.

[Am. 15-33, Eff. 07-07-15]

(a) DRAINAGE EASEMENTS. Where a subdivision or land division is traversed by a watercourse, drainageway channel or stream, or low area, an adequate easement or drainage right of way shall be provided substantially conforming to the lines of such watercourse; and parallel streets or parkways may be required in connection therewith. Where necessary, storm water drainage shall be maintained by landscaped open channels of adequate size and grade to hydraulically accommodate a 100-year frequency storm event. A buffer area of at least 75' in width along both sides of the drainage easement shall be shown on the plat or certified survey map and shall be maintained in an undeveloped state. Design details for drainage facilities shall be subject to review and approval by the Village Board.

13.44 PUBLIC SITES AND OPEN SPACES. In the design of the plat or certified survey map, suitable sites of adequate area for future schools, parks, playgrounds, drainageways and other public purposes shall be reserved if designated on the master plan, master plan component, official map or neighborhood development plan. Such areas shall be designated on the plat or map. If not so designated, the location of such sites shall assure, to the extent practicable, the preservation of scenic and historic sites, stands of fine trees, marshes, lakes and ponds, watercourse, watersheds and ravines.

13.45 REQUIRED IMPROVEMENTS. All proposed public improvements in any subdivision or other land division within the Village shall be designed and constructed as provided in this section and as specified on the Village's current Public Improvement Design Standards and Specifications, available from the Director of Public Services.

[Am. 08-09, Eff. 3-14-08; Am. 15-33, Eff. 07-07-15]

(1) SURVEY MONUMENTS. The subdivider shall install survey monuments placed in accordance with the requirements of §236.15, *Wis. Stats.*, and as may be required by the Village Board. The Village Board may waive the requirement for placing monuments required

pursuant to §236.15(1)(b) – (d) for a reasonable time on the condition that the subdivider provide a letter of credit, surety bond or other adequate security to ensure that such monuments will be placed within the time required by the Board.

(2) GRADING. After the installation of temporary block corner monuments by the subdivider and establishment of street grades by the Village Board, the subdivider shall grade the full width of the right of way of all streets proposed to be dedicated in accordance with plans and standard specifications approved by the Village Board. The subdivider shall grade the roadbeds in the street rights of way to subgrade.

(3) ROADWAY SURFACING. After the installation of all utility and storm water drainage improvements, the subdivider shall provide for surfacing all roadways in streets proposed to be dedicated to the widths prescribed by these regulations and the master plan or master plan components of the Village. Said surfacing shall be done in accordance with plans and standard specifications approved by the Village, and by the Dane County Highway Department where County approval is required.

(4) CURB AND GUTTER. The subdivider shall provide concrete curb and gutter on all Village streets in accordance with Village standard specifications and Village design guidelines. In the absence of such specifications or guidelines, construction shall conform with industry best practices as determined by the Director of Public Services. Wherever possible, provision shall be made at the time of construction for driveway access curb cuts. No Village building permit shall be issued for the construction of any building before the installation of curb and gutter, unless otherwise approved by the Village Board.
[Am. 06-07, Eff. 3-9-06; Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(5) SIDEWALKS.

(a) The subdivider shall provide a sidewalk on both sides of arterial and collector streets. Sidewalks along minor streets shall be provided on both sides of the street if so designated in the Village's sidewalk and trail system plans, and otherwise on at least one side of such street. Sidewalks shall have a minimum 5 feet of width, unless a lesser width is approved by the Village Board for good cause, and shall be constructed of concrete in accordance with Village specifications.

(b) Wider than standard sidewalks may be required by the Village Board in the vicinity of schools, commercial areas and other places of public assemblage and the Village Board may require the construction of sidewalks in locations other than those required under the preceding provisions of this chapter if it determines such walks to be reasonably necessary for safe and adequate pedestrian circulation.

(c) Alternative pedestrian ways (including 10' asphalt paths) may be approved in lieu of sidewalks where the proposed alternative pedestrian ways are constructed of all-weather material, are dedicated to the Village, or are owned and maintained by a properly registered homeowners association and have frontage on each parcel otherwise required to be provided with a sidewalk.

(d) The right of way along the side of any street where sidewalks are not required by this subsection shall be graded so as to accommodate the future construction of sidewalks along that side of the street. If the subdivider can show that terrain will prohibit future sidewalk construction, the Village Board may waive this provision.

(6) BICYCLE AND PEDESTRIAN TRAILS. In all cases where the Village's approved master plan, park and open space plan, official map, Village adopted neighborhood development plan, or applicable PUD Preliminary Development Plan or Final Development Plan includes a bicycle or pedestrian trail within a land division, the subdivider shall grade and surface the trail, show the trail within a dedicated right-of-way or public access easement on the final plat, and dedicate the trail to the public, except where the Village Board releases the subdivider of this requirement.

[Am. 08-09, Eff. 3-14-08; Am. 08-12, Eff. 4-18-08; Ratified 08-20, Eff. 5-20-08; Am. 15-37, Eff. 8-18-15; Am. 19-013, Eff. 7-26-19]

(7) STREET LIGHTING. The subdivider shall install streetlamps along all streets proposed to be dedicated to the public. Streetlamps shall be installed at all street intersections and along all street curves and at such other interior block spacing in accordance with Village standard specifications and Village design guidelines. In the absence of such specifications or guidelines, construction shall conform with industry best practices as determined by the Director of Public Services. Unless otherwise approved by the Director of Public Services, street lamps shall be spaced at intervals not to exceed 300 feet. Street lamps shall meet Village specifications or design guidelines, or in their absence electrical utility requirements.

[Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15; Am. 19-007, Eff. 4-3-19]

(8) PAVEMENT MARKINGS AND REGULATORY SIGNS. The subdivider shall provide regulatory traffic signs and all markings of traffic lanes, bicycle lanes, restricted parking areas, crosswalks and other regulatory pavement markings in accordance with a plan prepared by the subdivider and approved by the Director of Public Services. Regulatory traffic signs shall be designed and located according to the WisDOT approved version of the USDOT Federal Highway Administration Manual on Uniform Traffic Control Devices.

[Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(9) STREET NAME SIGNS. The subdivider shall provide pole mounted street name signs of a style approved by the Director of Public Services based on Village standard specifications, design guidelines, or prevailing or Village approved signage for the area. Street name signs shall be mounted at all street intersections. The Director of Public Services may approve the mounting of street name signs above regulatory signs where allowed by WisDOT approved version of the USDOT Federal Highway Administration Manual on Uniform Traffic Control Devices.

[Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(10) PUBLIC SANITARY SEWERAGE. The subdivider shall provide sanitary sewers in such a manner as to make adequate sanitary sewerage service available to each lot within the subdivision. The size, type and installation of all sanitary sewers proposed to be constructed shall be in accordance with Village standard specifications or design guidelines. In the absence of such specifications or guidelines, construction shall conform with industry best practices as determined by the Director of Public Services.

[Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(11) STORM WATER MANAGEMENT FACILITIES. The subdivider shall provide storm water management facilities necessary to comply with Chapter 24 of the Municipal Code and to prevent unreasonable hazard to life and property, in accordance with plans and specifications approved by the Director of Public Services. In addition, the following design requirements shall be met within each land division:

[Am. 15-33, Eff. 07-07-15; Am. 19-007, Eff. 4-3-19]

(a) Storm sewer piping shall be sized to convey the 10-year frequency storm event without surcharging.

(b) Streets and other paved areas shall be designed to completely contain the 25-year frequency storm event within the street section to the top of curb.

(c) Overland conveyance channels shall be sized to accommodate the 25-year frequency storm event within the channel bottom and banks, except as otherwise required under par. (d).

(d) Where no safe overflow route exists, new overland conveyance channels, pipes, and/or culverts that are sized to accommodate the 100-year frequency storm event shall be constructed.

(e) Upstream or off-site drainage shall be included in all design calculations for storm sewer piping and overland conveyances.

(f) Proposed discharges shall not exceed the safe capacity of the downstream receiving systems.

[Am. 93-39, Eff. 10-8-93; Repealed & Recr. 12-11, Eff. 7-27-12]

(11a) GRADING AND LANDSCAPING. The subdivider shall submit grading, restoration, and landscaping plans in conjunction with the erosion control plan. Such plans shall be approved by the Director of Public Services in accordance with Village standard specifications, or Village design guidelines, or in their absence industry best practices, available from the Director, except that the Director may require or the subdivider may request Village Board approval. The subdivider shall provide such as-built plans prior to the issuance of building permits. Such plans shall include the following:

[Am. 15-33, Eff. 07-07-15; Am. 19-007, Eff. 4-3-19]

(a) Spot elevations shown at all lot corners, high points, and at other locations if required by the Director of Public Services, with drainage arrows representing the intended flow paths shown along all lot lines.

(b) Where the use of swales is proposed, they shall have a minimum of 1% slope, unless otherwise approved by the Director of Public Services.

[Am. 19-007, Eff. 4-3-19]

(c) Clear indication that no new building opening will be less than two feet above the base flood elevation associated with any nearby floodplain, detention basin, or drainageway.

(d) A restoration plan for detention areas, greenways, and other areas with natural prairie seed mixtures conducive to the soil conditions and intended functions of such areas.

(e) A landscape plan for every detention basin, road ditch, greenway, or open channel, in accordance with standard specifications approved by the Director of Public Services and applicable zoning ordinance landscaping requirements. Grasses, trees, shrubs, wild flowers, other vegetation, or any combination thereof shall be planned and planted to promote the function, maintenance and aesthetic characteristics of such facilities.

[Cr. 2013-13, Eff. 7-12-13; Am. 19-007, Eff. 4-3-19]

(12) PUBLIC WATER SUPPLY FACILITIES. The subdivider shall provide water mains in such a manner as to make adequate water service available to each lot within the subdivision. The size, type and installation of all public water mains proposed to be

constructed shall be in accordance Village standard specifications or design guidelines. In the absence of such specifications or guidelines, construction shall conform with industry best practices as determined by the Director of Public Services.

[Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(13) FIRE HYDRANTS. Village standard fire hydrants shall be installed by the subdivider where determined reasonably necessary to provide appropriate fire protection by the Village Engineer.

(14) OTHER UTILITIES. No telephone service lines or electrical distribution system, as defined in §7.071(2)(a) of this Code, shall be located on overhead poles except where underground installation is impossible due to exceptional topography or other physical barrier. Plans indicating the proposed location of all gas, electrical power and telephone distribution and transmission lines required to service the land division shall be approved by the Village Director of Public Services in accordance with Village standard specifications or design guidelines. In the absence of such specifications or guidelines, construction shall conform with industry best practices as determined by the Director of Public Services.

[Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(15) STREET TREES. Street trees shall be installed in accordance with the requirements of §15.06(7) of the DeForest Zoning Code. The Director of Public Services may require the developer to install the trees at the time of development or place funds into an escrow account to cover the cost of future Village installation, in amounts established by the Village Board from time to time.

[Am. 15-33, Eff. 07-07-15]

(16) PARKS AND PUBLIC LANDS. Where land is dedicated for active public park and recreational use, the subdivider shall rough grade, topsoil, and seed land for its intended use before it will be accepted by the Village. Where land is dedicated for passive recreational use, the Village may require an alternate restoration or planting plan. If specified within a subdivider's agreement, the subdivider may also be responsible for installation of additional recreational facilities within dedicated public park space.

[Am. 08-09, Eff. 3-14-08]

SUBCHAPTER V – DEDICATION REQUIREMENTS.

13.50 PARK AND PUBLIC LAND DEDICATIONS.

(1) GENERAL PROVISIONS. The requirements of this section are established to ensure that adequate parks, open spaces, and sites for other public uses are properly located and preserved as the Village grows. They have also been established to ensure that the cost of providing the park and recreation sites and facilities necessary to serve the additional people brought into the community by land development may be equitably apportioned on the basis of additional needs created by development. This section shall apply to all lands proposed for residential development.

(2) PARK DEDICATION.

(a) Required Dedication. The subdivider shall dedicate usable land, as defined in §13.03(33), to provide park, playground, recreation and open space to meet the needs to be created by the subdivision, land division, or development project in accordance with the standards outlined hereinafter. The parkland dedication requirement is 1,921 ft² for each single family or duplex unit, and 1,440 ft² for each multifamily unit. If the Director of Recreation and

Community Enrichment determines that fees in lieu of land should be paid, based on an evaluation against the Village's Parks and Open Space Plan and any other policies adopted by the Village Board, the amount to be paid shall be as provided in section 13.51(4)(c). If the Director of Recreation and Community Enrichment determines that a proposed dedication meets some but not all of the usable land criteria in §13.03(33), he/she may recommend and the Village Board may approve acceptance of that land with partial credit to the parkland dedication requirement in this subsection. [Am. 13-13, Eff. 7-12-13; Am. 15-37, Eff. 8-18-15; Am. 19-013, Eff. 7-26-19; Am. 21-01; Eff. 2-12-21]

(b) Designated Park Lands. Whenever a proposed public playground, park, trail or similar recreational facility (other than streets or drainage ways) designated in the master plan, master plan component or on the official map of the Village, is embraced, in whole or in part, in a tract of land to be subdivided, those proposed public lands as lie within the land division shall be made a part of the plat or certified survey map and shall be dedicated to the public by the subdivider and credited toward the requirements of par. (a).

(c) Access. Public access shall be provided consistent with the "usable land" definition in §13.03(33) except in cases of partial credit under par. (2)(a). In cases where private lots adjoin public park space, the Village may require that the subdivider grade, sign and/or landscape the area along such property lines to clearly demarcate the borders between private lots and public park space.

[Cr. 08-09, Eff. 3-14-08; Am. 15-37, Eff. 8-18-15]

(3) OTHER LAND DEDICATIONS. Whenever a tract of land to be subdivided embraces all or any part of an arterial street, drainageway or other public way which has been designated in the master plan, master plan component, or on the official map of the Village, that portion of the public way as lies within the proposed plat or certified survey map shall be made a part of the plat or map and dedicated to the public by the subdivider.

[Am. 92-10, Eff. 3-16-92; Subs. (4)-(7) repealed 95-19, Eff. 5-4-95; Am. 06-12, Eff. 4-20-06]

13.51 IMPACT FEES FOR PARK FACILITIES.

(1) INTENT. This section is intended to impose an impact fee upon residential developments in an amount based upon the number of residential dwelling units created, in order to finance park facilities, the demand for which is generated by new residential development. The fees shall be used to finance capital costs for new or enlarged capital improvements that substantially benefit those developments that pay the fees.

(2) AUTHORITY. The provisions of this section shall not be construed to limit the power of the Village to adopt any ordinance pursuant to any source of local authority or to utilize any other methods or powers otherwise available for accomplishing the purposes set forth herein, either in lieu of or in conjunction with this section.

(3) DEFINITIONS. As used in this section, the term "building permit" shall not include permits required for remodeling, rehabilitation, or other improvements to an existing structure or rebuilding a damaged or destroyed structure, which result in no increase in the number of dwelling units.

(4) IMPOSITION OF IMPACT FEE.

(a) Except as provided in paragraph (b), no building permit for a residential development shall be issued unless the impact fees calculated pursuant to this section has been paid. In the case of any new subdivision or land division as defined in §13.03, the impact fee due shall be

payable upon issuance of the first building permit in that subdivision or land division unless otherwise provided in a subdivider's agreement.

(b) If the total amount of impact fees due for a development will be more than \$75,000, the developer may defer payment of the impact fees until the earlier of 4 years from the date of the issuance of the building permit, or 6 months before the Village incurs the costs to construct, expand, or improve the public facilities that are the subject of the impact fee. If the developer elects to defer payment under this paragraph, the developer shall maintain in force a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the Village. A developer may not defer payment of impact fees under this paragraph for a project that has been previously approved.

(c) The impact fee for park land shall be \$3,308 per residential unit in single family or duplex structures, and \$2,486 per residential unit in multifamily structures. If the Village accepts the dedication of park land pursuant to §13.50, the fee calculated under this paragraph shall apply only with respect to the number of residential units in excess of the number for which the required land dedication was made.

(d) The impact fee for park improvements shall be \$1,739 per residential unit in single family and duplex structures, and \$1,308 per residential unit in multifamily structures. The fee imposed by this paragraph is in addition to any amounts imposed by par. (c). [Am. 22-02, Eff. 1-19-22]

(5) NEEDS ASSESSMENT. The needs assessment adopted pursuant to Ordinance 2006-12 shall be used as the basis for calculation and expenditure of impact fees imposed pursuant to this section after April 20, 2006.

[Note: The adopted needs assessment is on file with the Village Clerk]

(6) ADMINISTRATION OF IMPACT FEE.

(a) *Transfer of funds to Village Finance Director.* Upon receipt of impact fees, the Village Finance Director shall be responsible for placement of such funds into separate accounts as hereinafter specified. All such funds shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of Village funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account.

(b) *Establishment and maintenance of accounts:* The Finance Director shall establish separate accounts and maintain records for each such account whereby impact fees collected pursuant to this section prior to April 20, 2006 can be segregated from impact fees imposed on or after such date. Impact fees imposed prior to April 20, 2006 shall be expended in accordance with the Needs Assessment approved by Ordinance 95-19.

(c) *Maintenance of records.* The Village Finance Director shall maintain and keep accurate financial records for each such account that shall show the source and disbursement of all revenues; shall account for all monies received; shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the capital improvements specified in the appropriate Needs Assessment, and shall provide an annual account for each impact fee account showing the source and amount of all funds collected and the projects that were funded.

(d) *Annual review and modification:* On or before April 30 in each year, the Village Finance Director shall adjust the amount of the impact fees imposed by this section to account

for the increased cost of park improvement construction from the previous year based on the inflation rate established by the Engineering News Record Construction Cost Index or other appropriate index of inflationary price increases.

(7) BONDING OF EXCESS FACILITY PROJECTS. The Village may issue bonds, promissory notes, revenue certificates, and other evidences of indebtedness in such manner and subject to such limitations as may be provided by law in furtherance of the provision of capital improvement projects. Funds pledged toward retirement of bonds, revenue certificates, or other obligations of indebtedness for such projects may include impact fees and other Village revenues as may be allowed by the Board. Impact fees paid pursuant to this section, however, shall be restricted to use solely and exclusively for financing directly or as a pledge against bonds, notes, revenue certificates, and other obligations for the cost of capital improvements as specified herein.

(8) REFUNDS.

(a) The person or persons who paid an impact fee shall be refunded all or part of such fee that has not been expended or pledged toward repayment of indebtedness incurred for capital improvements under this section within the time established in par. (b).

[Am. 22-02, Eff. 1-19-22]

(b) The Village Board finds that the reasonable period for the expenditure of impact fees collected under this section is no less than the statutory maximum period of eight (8) years for all of the capital improvements identified in the needs assessment to be funded by impact fees. Any amounts not expended within eight (8) years after they are collected, determined on a first-in, first-out basis, shall be refunded to eligible persons, as provided in par. (a).

[Am. 22-02, Eff. 1-19-22]

(9) APPEALS. A developer or an applicant for a building permit may appeal the imposition or amount of the impact fee, and any property owner may appeal a decision on a claim for refund of unexpended impact fees, under the provisions of Chapter 17 of this Code and Chapter 68, Wis. Stats. If the notice of appeal challenges the imposition of an impact fee, or the amount imposed, the developer or applicant may pay the fees imposed under protest and the building inspector shall issue any building permits withheld solely due to the nonpayment of the fees. If the applicant prevails on appeal, the Finance Director shall refund that portion of the fee so paid as finally determined in the appeal process.

(10) WAIVERS AND EXCEPTIONS. Petitions for waivers or exceptions to the application of this section shall be made to the Director of Recreation and Community Enrichment who shall make a recommendation for determination by the Village Board. Full or partial waivers or exceptions from any requirement of this section may be granted if the Board determines that the literal application of such provisions will have an adverse effect on the availability of affordable housing, or is otherwise unreasonable or inequitable due to unique circumstances of the particular property at issue.

[Am. 19-013, Eff. 7-26-19; Am. 21-01; Eff. 2-12-21]

(11) CREDITS.

(a) The Village Board may enter into agreements with any developer granting credits against the impact fees imposed against the developer for park improvements in exchange for the construction, installation or provision of improvements which are eligible for funding through impact fee revenues. Such agreements shall be in writing, shall be entered into prior to the due date of the impact fees against which the credit is given, and shall specify the improvements to

be provided, the cost thereof, and the amount of credit granted against the impact fees. In no event shall the Village provide a refund for a credit that is greater than either the impact fees due from the developer or the fair market value of the improvements provided. Any decision to allow a developer to provide improvements in lieu of fees shall rest in the sole discretion of the Village Board.

[Section created by 95-19, Eff. 5-4-95; Am. 06-12; Eff. 4-20-06]

13.52 IMPACT FEES FOR PUBLIC SAFETY FACILITIES.

(1) INTENT. This section is intended to allocate financial burdens of providing public facilities fairly between residents living in the Village at the time of adoption of this section and owners of existing development projects in the Village and developers of new land developments, as well as to comply with Wis. Stats. §66.0617.

(2) AUTHORITY. The Village Board has enacted this section to provide a means to recover the cost of development beyond that already existing to finance public facilities by other means authorized by law as authorized under Wis. Stats. §66.0617(2)(b), including, without limitation because of enumeration herein, Wis. Stats. §§236.13(2) and (2m).

(3) DEFINITIONS. As used in this section, the term "building permit" shall not include:

(a) Any permit required for remodeling, rehabilitation, or other improvements to an existing residential structure, which result in no increase in the number of dwelling units on the building site;

(b) Any permit required for remodeling, rehabilitation, or other improvements to a non-residential structure which result in no increase in the total area of floor space within the structure;

(c) Any permit required for rebuilding a structure damaged or destroyed after the effective date of this section, provided that any reconstructed residential building has no more residential units, and any reconstructed non-residential building has no more floor space, than the building being replaced;

(d) Any permit required for construction of an accessory building in a residential district having an estimated value of not more than \$15,000.

(4) IMPOSITION OF IMPACT FEE.

(a) Except as provided in this paragraph, no building permit for development shall be issued unless the impact fee imposed by this section is paid. If the total amount of impact fees due for a development will be more than \$75,000, the developer may defer payment of the impact fees until the earlier of 4 years from the date of the issuance of the building permit, or 6 months before the Village incurs the costs to construct, expand, or improve the public facilities that are the subject of the impact fee. If the developer elects to defer payment under this paragraph, the developer shall maintain in force a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the Village. A developer may not defer payment of impact fees under this paragraph for a project that has been previously approved.

(b) The impact fee pursuant to this section shall be determined as follows:

1. Residential Development. The impact fee for residential developments shall be \$355.00.

2. Non-Residential Development. The impact fee for non-residential developments shall be based on a good faith estimate by the Building Inspector of the cost of the construction authorized by the permit. The fee shall be \$0.77 per \$1,000.00 of estimated value.

(c) Fee Credit. Where additions are made to existing non-residential buildings, the impact fee shall be reduced based on the proportion of the assessed value of the existing building to the estimated value of the building following completion of the addition. [Am. 22-02, Eff. 1-19-22]

(5) NEEDS ASSESSMENT. The needs assessment entitled "Public Facility Needs Assessment for Public Safety Impact Fees" prepared by Virchow, Krause & Company dated May 26, 2005 and adopted pursuant to Ordinance 2005-28 shall be used for calculation of impact fees imposed pursuant to this section.

[Note: The adopted needs assessment is on file with the Village Clerk]

(6) ADMINISTRATION OF IMPACT FEE.

(a) *Transfer of funds to Village Finance Director.* The Village Finance Director shall be responsible for placement of all impact fees collected under this section into one or more segregated accounts and all such funds shall be accounted for separately from other funds of the Village. All such funds shall be deposited in interest-bearing accounts in a bank authorized to receive deposits of Village funds. Interest earned by each account shall be credited to that account and shall be used solely for the purposes specified for funds of such account on a first-in first-out basis.

(b) *Expenditure of Impact Fees.*

1. Disbursements. Impact fees collected under this section, and interest accrued thereon, shall be used to pay part of the Village's obligation to the DeForest Area Fire Protection District for its share of the cost of the capital improvements for which the impact fee is imposed. Such funds shall be used only to pay that portion of the Village's entire share that equals the proportionate cost of the new facilities that is necessitated by new development. Such funds shall be paid to the District when the Village's funding obligation for such improvements is determined to be due and payable, and shall be used by the District only for those capital costs for which the impact fees were imposed. Such costs may include the costs of debt service on bonds, notes or similar debt instruments when the debt has been incurred for the purpose of proceeding with designated public facilities projects prior to the collection of all anticipated impact fees for that project, to reimburse the Village for advances of other funds or reserves, and such other purposes consistent with §66.0617, Stats. which are recorded and approved by the Village Board.
2. Impact Fee Zones. In the event the Village should ever establish separate impact fee zones with different fees depending upon the zone in which the property is located, separate accounts shall be kept of fees collected from different impact fee zones, and revenues collected in particular zones shall be spent in those zones as appropriate.

3. [Repl. 22-02, Eff. 1-19-

(c) *Maintenance of records.* The Finance Director shall maintain and keep accurate financial records for each such account that shall show the source and disbursement of all revenues; shall account for all monies received; shall ensure that the disbursement of funds from each account shall be used solely and exclusively for the purposes specified in the needs assessment described in sub. (5); and shall provide an annual account for each impact fee account showing the source and amount of all funds collected and the projects that were funded.

(7) REFUNDS. Impact fees held by the Village which have not been expended, encumbered, or otherwise used within 8 years after they are collected to pay the capital costs for which they were imposed shall be refunded to the person or persons who paid such unused impact fees, together with the interest earned on the impact fee paid. [Am. 22-02, Eff. 1-19-22]

(8) APPEALS. Any developer, as defined in §66.0617, Stats., upon whom an impact fee is imposed under this section, may appeal to contest the amount, collection or use of the impact fee as provided in this subsection.

(a) It shall be a condition to the commencement of an appeal that the impact fee from which the developer appeals shall be paid as and when the fee or any installment thereof becomes due and payable, and upon default in making any such payment, such appeal may be dismissed.

(b) The only questions appealable under this section shall be:

1. The amount of the fee charged and paid by the developer;
2. The method of collection or the right of the Village to collect the impact fee; and
3. The use made of the impact fee paid by the developer, or of any interest thereon, by the Village.

(c) Appeals shall be brought within thirty (30) days of the date of payment of the impact fee or, if the appeal relates to the use of the impact fee, within thirty (30) days of the payment being challenged.

(d) Upon receipt of a notice of appeal, the Village Clerk shall compile a record of the ordinance imposing the impact fee that is the subject of the appeal, a record of the management and expenditure of the proceeds of the impact fee, and shall transmit these documents to the Village Board. In consultation with the Village Finance Director and the Fire Department, the Village Clerk shall also compile a report on each appeal in which the appellant is seeking a reduction or total refund in the impact fee paid. This report shall specify the fiscal impact on the Village if the appeal overturns the impact fee. If the fiscal impact report indicates that the appeal, if successful, will cause a revenue shortfall that otherwise was not budgeted with respect to the public facility, and if this revenue shortfall cannot be reconciled by reduction in impacts caused by the development on the appellant's property, the report shall estimate whether it will be necessary for the Village to adjust impact fees, or amend existing ordinances to recover the proposed revenue shortfall.

(e) The Village Board shall hold a public hearing on the appeal, preceded by a Class 1 notice, providing a fair opportunity for the appellant to be heard. The burden shall be on the appellant to establish the illegality or impropriety of the fee from which the appeal has been taken. Following the close of the hearing, the Village Board shall deliberate on the matter, and shall conduct such studies and inquiries as it deems appropriate to decide the appeal.

(f) If the Village Board determines that the appeal has merit, it shall determine appropriate remedies. These may include reallocation of the proceeds of the challenged impact fee to accomplish the purposes for which the fee was collected, refunding the impact fee in full or in part, along with interest collected by the Village thereon, or granting the appellant the opportunity to make the impact fee payment in installments, or such other remedies as it deems appropriate in a particular case.
[Section Cr. 05-28, Eff. 10-6-05; Renumbered 06-12, Eff. 4-20-06]

SUBCHAPTER VI – DEVELOPMENT REQUIREMENTS.

13.60 DEVELOPMENT REGULATIONS.

(1) COMMENCEMENT. No building permit shall be issued, and no construction or installation of improvements shall commence, in a proposed subdivision or land division until the final plat or certified survey map has been approved by the Village Board and a subdivider's agreement has been approved pursuant to §13.61, except that a subdivider's agreement shall not be required for a certified survey map division which does not require any public improvements.

(1) PLANS. The following plans and accompanying construction specifications shall be approved by the Village Director of Public Services, if such plans are in accordance with Village specifications, Village design guidelines, or in their absence industry best practices approved by the Director, before authorization of construction or installation of improvements. In the event the subdivider desires a variation to any Village specification, Village design guideline, or in their absence industry best practice approved by the Director; the subdivider otherwise requests Village Board action; or the Director determines that the submitted plans and accompanying construction specifications raise policy issues, the following plans and accompanying specifications shall require the approval of the Village Board. Any such plans and specification shall be submitted at least thirty (30) days before the Village Board meeting, unless a shorter period is approved by the Director of Public Services:
[Am. 15-33, Eff. 07-07-15; Am. 19-007, Eff. 4-3-19]

(a) Street plans and profiles showing existing and proposed grades, elevations and cross sections of required improvements.

(b) Sanitary sewer plans and profiles showing the locations, grades, sizes, elevations and materials of required facilities.

(c) Storm sewer plans and profiles showing the locations, grades, sizes, cross sections, elevations and materials of required facilities.

(d) Water main plans and profiles showing the locations, sizes, elevations and materials of required facilities.

(e) Erosion and sedimentation control plans meeting the requirements of chapter 24 of this Code.

(f) Planting plans showing locations and species of any required grasses, vines and shrubs and the locations, ages, calipers and species of all required trees.

(g) Master grading plan for the subdivision.

(h) Regulatory and entryway signage plan.

(i) Additional special plans or information, as required by the Director of Public Services.

[Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15]

(3) CONSTRUCTION SITE EROSION CONTROL. The subdivider shall comply with Chapter 24 of the Municipal Code, Erosion Control and Stormwater Management.

(4) PROTECTING EXISTING FLORA/TREE PRESERVATION. The subdivider shall make every effort to protect and retain all existing trees, shrubbery, vines and grasses not actually lying in public roadways, drainageways, building foundation sites, private driveways, soil absorption waste disposal areas, paths and trails. Such vegetation shall be protected and preserved during construction in accordance with sound conservation practices, including the preservation of trees by well islands or retaining walls wherever abutting grades are altered, and by minimizing soil grading and compaction within the drip edges of such trees. Where required under §13.21 or §13.31, the subdivider shall implement and continuously maintain the Tree Protection and Preservation Plan during site development.

[Am. 08-09, Eff. 3-14-08]

(5) CULVERT REQUIREMENTS. The subdivider shall show all driveway culvert locations. A Village culvert permit must be obtained before installation of any culvert for storm water management purposes and shall comply with the standards set forth therein. Culverts shall be installed prior to any construction activity occurring on the site.

(6) INSPECTION. Prior to commencing any work within the subdivision or land division, the subdivider shall make arrangements with the Director of Public Services to provide for adequate inspection of any work involving or affecting any public improvements within the development. The Director of Public Services shall approve all completed work prior to acceptance of the improvements or release of sureties, where in accordance with approved plans and specifications.

[Am. 97-3, Eff. 2-3-97; Am. 13-13, Eff. 7-12-13; Am. 15-33, Eff. 07-07-15; Am. 15-37, Eff. 8-18-15]

13.61 SUBDIVIDER'S AGREEMENT.

(1) REQUIRED TERMS. In any case where a subdivider's agreement is required under this chapter, or any approval granted hereunder, the agreement shall:

(a) Be substantially complete, in the determination of the Village Administrator, at the time the associated final plat or certified survey map is presented to the Village Board for action. A subdivider's agreement that is not substantially complete at this time may be a basis for Board rejection of the associated plat or map.

(b) Be executed and delivered to the Village prior to recording of the plat or certified survey map and the commencement of any work on any improvements within the plat or certified survey map area.

(c) Be in a form approved by the Village Administrator.

(d) Bind the subdivider to comply with the requirements of this Code and any specifications, plans, or conditions imposed or approved pursuant thereto.

[Am. 15-37, Eff. 8-18-15; Am. 16-30, Eff. 9-6-16]

(2) A subdivider's agreement required pursuant to sub. (1) shall include provisions for the following:

[Am. 15-37, Eff. 8-18-15]

(a) Providing for approval by the Village of all contractors performing work on any public improvements.

[Am. 15-37, Eff. 8-18-15; Am. 16-30, Eff. 9-6-16]

(b) Specifying the public improvements to be constructed or installed by the subdivider.

[Am. 15-37, Eff. 8-18-15]

(c) Providing for adequate supervision and regulation of construction activities, schedules, and methods.

[Am. 15-37, Eff. 8-18-15]

(d) Outlining the requirements for acceptance of public improvements by the Village.

[Am. 15-37, Eff. 8-18-15]

(e) Requiring that contractors engaged in work on public improvements or any other improvements on lands owned by, or dedicated to, the Village, be adequately insured for liability including workers' compensation liability and assuring that such insurance coverage will indemnify the Village and its engineer in the event of a claim.

[Am. 15-37, Eff. 8-18-15]

(f) Assuring that the subdivider and all contractors agree to indemnify the Village and its engineer for any liability arising out of the construction of public improvements or work on lands owed by, or dedicated to, the Village.

[Am. 15-37, Eff. 8-18-15; Am. 16-30, Eff. 9-6-16]

(g) Providing for guarantees by the subdivider of all public improvements for not less than one (1) year following final acceptance by the Village, and an additional period equal to the initial guaranty period for each replacement of any guaranteed work.

[Am. 13-13, Eff. 7-12-13; Am. 15-37, Eff. 8-18-15; Am. 16-30, Eff. 9-6-16]

(h) Providing for the payment of required fees and the dedication of required lands and improvements.

[Am. 15-37, Eff. 8-18-15]

(i) Providing for the reimbursement of the Village for professional consultant's fees and other costs incurred in connection with the development of the property.

[Am. 15-37, Eff. 8-18-15; Am. 16-30, Eff. 9-6-16; Am. 16-44, Eff. 11-16-16]

(j) Providing for a letter of credit, performance bond, or other surety at the option of the developer and approved by the Village Administrator, to guarantee completion of the public improvements and the other obligations of the subdivider under the agreement or this Code. The subdivider may construct the project in such phases as the Village Board approves. If the subdivider's project will be constructed in phases, the amount of the surety required shall be limited to the phase of the project that is currently being constructed and any remaining surety obligations from previous phases. Any surety required by the Village under this section shall be limited to 120% of the estimated cost of the public improvements, and to a term not exceeding fourteen (14) months after substantial completion, as determined by the Director of Public Services.

[Am. 11-21, Eff. 6-10-11; Am. 15-33, Eff. 07-07-15; Am. 15-37, Eff. 8-18-15; Am. 16-30, Eff. 9-6-16]

(k) Assuring that, in the event of a default by the subdivider on any obligation under the agreement, the Village will have the ability to promptly recover from a third-party surety, an escrow deposit, or other form of security, the necessary funds to complete the construction of the improvements, and recover all of its costs, including all engineering, legal, planning and other fees relating to the default.

[Repealed & Recr. 12-11, Eff. 7-27-12; Am. 15-37, Eff. 8-18-15]

(l) Requiring the subdivider to reimburse the Village for the preparation of record drawings in a digital format compatible with the Village's record management system. The Village or its engineering consultant, if so directed by the Village, shall complete a survey of the constructed improvements and utilize digital drawings provided by the subdivider to prepare the Record Drawings. All costs associated with the survey of and completion of record drawings shall be reimbursed by the subdivider.

[Am. 15-37, Eff. 8-18-15]

(m) Requiring the subdivider's compliance with all other Village ordinances, conditions of approval and other applicable regulations.

[Am. 15-37, Eff. 8-18-15]

(n) Requiring the subdivider to control weeds and all growth of natural vegetation in a manner consistent with Village ordinances on each lot, outlot, or publicly dedicated parcel until such time as that land is transferred to another entity.

[Cr. 06-07, Eff. 3-9-06]

(o) Specifying that private covenants will be imposed on all residential subdivisions, including a provision that individual home owners be required to plant and maintain a minimum 300 points of landscaping per lot, in accordance with the landscape improvement standards in §15.06(4) of the Zoning Code, or equivalent.

[Cr. 06-07, Eff. 3-9-06; Am. 15-37, Eff. 8-18-15]

(p) Requiring that the subdivider be responsible for clearing all soil, vegetation, gravel, and similar construction site debris that is tracked onto public streets during the day on which such tracking occurs.

[Cr. 08-09, Eff. 3-14-08]

(q) Requiring the construction and maintenance of highway noise mitigation measures as approved to meet any applicable requirements under § 13.035.

[Cr. 11-21, Eff. 6-10-11; Am. 16-30, Eff. 9-6-16]

(r) Assuring that all improvements are completed in accordance with all Village standards and the approved engineering plans within eighteen (18) months from the

date of the agreement, or such other timeframe as may be approved by the Village Board.

[Cr. 15-37, Eff. 8-18-15]

(s) Including such other provisions as deemed necessary or appropriate by the Village Administrator to carry out the intent of this chapter and other provisions of this Code applicable to the development.

[Cr. 15-37, Eff. 8-18-15]

CHAPTER 14
BUILDING REGULATIONS
[Repealed and Recreated 14-001, Eff. 1-17-14]

SUBCHAPTER I: BUILDING CODE.....	14-2
14.01 TITLE.....	14-2
14.02 PURPOSE.....	14-2
14.03 SCOPE.....	14-2
14.04 BUILDING INSPECTOR.....	14-2
14.05 BUILDING PERMITS AND INSPECTION.....	14-3
14.06 STATE CODES ADOPTED.....	14-9
14.07 GARAGES.....	14-10
14.09 NEW METHODS AND MATERIALS.....	14-10
14.10 SIGNS.....	14-10
14.11 UNSAFE BUILDINGS AND MOVING BUILDINGS.....	14-10
14.12 OUTDOOR FURNACES REGULATED.....	14-11
14.13 SWIMMING POOLS REGULATED.....	14-12
14.14 DISCLAIMER ON INSPECTIONS.....	14-12
14.15 PENALTIES AND VIOLATIONS.....	14-12
SUBCHAPTER II: PLUMBING CODE.....	14-13
14.16 DEFINITIONS.....	14-13
14.17 STATE CODE ADOPTED.....	14-13
14.18 PLUMBING SUPERVISOR, POWERS AND DUTIES.....	14-13
14.19 APPLICATIONS AND PERMITS.....	14-14
14.20 INSPECTION OF WORK.....	14-14
14.21 CONNECTIONS TO SANITARY SEWER AND WATER SYSTEMS.....	14-14
14.22 CROSS-CONNECTIONS.....	14-14
14.23 CLEAR WATERS.....	14-15
14.24 GREASE SEPARATORS.....	14-16
14.25 DUPLEX SERVICE CONNECTIONS.....	14-16
14.26 DISCLAIMER ON INSPECTIONS.....	14-16
14.27 PENALTY.....	14-17
SUBCHAPTER III: ELECTRICAL CODE.....	14-17
14.28 ELECTRICAL PERMITS AND INSPECTION.....	14-17
14.29 STATE CODE ADOPTED.....	14-18
14.30 100 AMP. SERVICE REQUIRED.....	14-18
14.31 OUTSIDE WATER METER WIRING.....	14-18
14.32 PENALTY.....	14-18
14.33 DISCLAIMER ON INSPECTIONS.....	14-18

SUBCHAPTER I: BUILDING CODE

14.01 TITLE. This subchapter shall be known as the "Building Code of the Village of DeForest."

14.02 PURPOSE. This code provides certain minimum standards, provisions and requirements for safe and stable design, methods of construction and uses of materials in buildings and structures hereafter erected, constructed, enlarged, altered, repaired, moved, converted to other uses or demolished, and regulates the equipment, maintenance, use and occupancy of all such buildings and structures. Its purpose is to protect and foster the health, safety, and wellbeing of persons occupying or using such buildings and the general public.

14.03 SCOPE. New buildings and structures hereafter erected in, or any building or structure hereafter moved within or into, the Village shall conform to all the requirements of this code except as they are herein specifically exempted from part or all of its provisions. Any alteration, enlargement or demolition of an existing building and any installation therein of electrical, gas, heating, plumbing or ventilating equipment which affects the health or safety of the users thereof or any other persons, is a "new building" to the extent of such change. Any existing building shall be considered a "new building" for the purposes of this code whenever it is used for dwelling, commercial or industrial purposes unless it was being used for such purposes at the time this code was enacted. The provisions of this code supplement the laws of the State of Wisconsin pertaining to construction and use and the Zoning Code of the Village and amendments thereto to the date this chapter was adopted, and in no way supersede or nullify such laws and said Zoning Code.

14.04 BUILDING INSPECTOR.

(1) **GENERAL POWERS AND DUTIES.** The Building Inspector shall enforce the provisions of this chapter and of all other ordinances and the laws and orders of the State of Wisconsin which relate to building construction, plumbing and electrical installations and for these purposes may at all reasonable times enter buildings and premises. The Building Inspector may pass upon any questions arising under the provisions of this chapter relating to buildings, subject to conditions contained in this chapter. No person shall interfere with the said Inspector while in the performance of the duties prescribed in this chapter. The Building Inspector shall direct the activities of the Assistant Building Inspector. Any person feeling aggrieved by any order or ruling of the Building Inspector may, within 20 days thereafter, appeal from such order or ruling to the Board of Zoning Appeals. Such an appeal must be in writing.

[Am. 19-003, Eff. 2-16-19]

(2) QUALIFICATIONS.

(a) The Building Inspector shall have the necessary qualifications required by the State of Wisconsin to supervise the general construction of buildings.

(b) The Building Inspector shall be certified by the Wisconsin Department of Safety and Professional Services to administer and enforce all the provisions of the Wisconsin Uniform Dwelling Code.

(3) RECORDS. The Building Inspector shall keep a record of all applications for building permits, and regularly number each permit in the order of issuance. The Building Inspector shall keep a record of all inspections made and of all removal and condemnation of buildings. The Building Inspector shall make a report to the Village Board on the above matters when requested by the Village Board.

[Am. 19-003, Eff. 2-16-19]

14.05 BUILDING PERMITS AND INSPECTION.

(1) PERMIT REQUIRED. (a) General. No building or structure of any kind shall be moved within or into the Village and no building or structure, or any part thereof, shall hereinafter be erected, or ground broken for the same, or enlarged, altered, moved, demolished, razed or used within the Village, except as herein provided, until a permit therefor shall first have been obtained by the owner, or an authorized agent, from the Building Inspector, with zoning approval from the Zoning Administrator.

(b) Early Start Permits. In cases of new construction, the Building Inspector shall have the authority to grant an Early Start Permit before issuance of the Building Permit allowing the initiation of site grading (with an approved erosion control permit and stormwater management plan, where applicable), the installation of utilities to the building site, and installation of structural footings. Early Start Permits may be granted at the discretion of the Building Inspector when he or she determines that a complete application related to the structure has been submitted and appears to comply with all requirements for issuance of the building permit. By accepting an Early Start Permit, the applicant acknowledges that the building plans and permit, when finally approved, shall control with respect to the required location and specifications of utility and footing installations and site grading, notwithstanding any work already initiated or completed under authority of the Early Start Permit, and that compliance with the approved plans and permit and the full cost thereof shall be the responsibility of the applicant. The applicant further acknowledges and agrees that the issuance of an Early Start Permit shall not obligate the Village to subsequently issue a building permit, and in no event shall the Village be liable for any expense or loss resulting in whole or in part from the issuance of the Early Start Permit.

[Cr. 11-12, Eff. 4-29-11]

(2) APPLICATION. Application for a building permit shall be made in writing upon a form furnished by the Building Inspector and shall state the name and address of the owner of the land and also the owner of the building if different, the legal description of the land upon which the building is to be located, the name and address of the designer, the use to which said building is to be put, and such other information as the Building Inspector may require.

(3) DEDICATED STREET REQUIRED. No building permit shall be issued unless the property on which the building is proposed to be built abuts a street that has been dedicated for street purposes, and which street may be lawfully accessed from the property.

(4) UTILITIES REQUIRED.

(a) Except as provided in sub. (b), no building permit shall be issued for the construction of any building until a sanitary sewer main providing a connection to the public

wastewater treatment system, a water main connected to the Village's municipal water distribution system, grading, graveling and curb and gutter (where required) are installed in the street abutting the property for which the permit is required.

(b) The installation of water and/or sewer mains in the abutting street shall not be required as a condition of issuance of a building permit for construction in any of the following circumstances:

1. Unplatted lands located in an area which, at the time of application, are located more than one-half mile from the nearest Village water main, unless installation of water and/or sewer mains is required by any other ordinance or as a condition of any land division or zoning approval;
2. Parcels located within plats which were approved prior to their annexation to the Village, unless Village water and/or sewer mains are located adjacent to the parcel to which the application applies; and
3. Properties requiring building permits only for repairs or remodeling which do not increase the number of dwelling units and which are not located adjacent to a Village water or sewer main.
4. Any parcel for which the Director of Public Services determines that the installation of the required sewer and water facilities prior to completion of construction is adequately guaranteed by an agreement with the owner or a developer satisfying all of the following requirements:
 - a. The agreement shall provide that if the utility installation is not completed as promised, the Village may complete the installation at the developer or owner's expense. The promised completion date shall allow sufficient time for the Village to design, solicit bids, contract for, and complete the installation prior to the anticipated building completion date;
 - b. Performance by the developer or owner is guaranteed by a cash deposit or letter of credit approved by the Village Administrator allowing the Village to promptly realize on the security to pay any costs incurred or to be incurred by the Village under subd. a;
 - c. The applicant for the building permit and property owner execute the agreement, or a separate agreement, acknowledging and agreeing that no occupancy permit will be issued for the proposed building until all required utility services are established.

(c) The provisions of §12.01 shall apply to any property exempted under par. (b)1-3.
[Am. 15-19, Eff. 05-01-15]

(5) REST ROOM FACILITIES AT CONSTRUCTION SITES.

(a) General. Except as provided in par. (b), every general contractor or other person in charge of construction at a site for which a building permit is required under sub. (1) shall provide portable restrooms as defined in Wis. Admin. Code § SPS 391.03(7),

which shall be available for unrestricted use by all contractors, subcontractors, material suppliers, inspectors, architects, engineers, surveyors, the employees of any of the foregoing, and any other persons lawfully on the site when any construction-related activity is taking place. Such portable restrooms shall meet the requirements of Wis. Admin. Code §SPS 362.2900(1)(a)3 and 391.13.

(b) Paragraph (a) shall not apply to any of the following:

1. Any site which has fully operational toilet facilities attached to a permanent sanitary waste pipe which are available for the unrestricted use of the persons described in par. (a) during all construction activities.
2. Any site located on the same block as, or if the site is not part of an approved plat then within 600 feet of, another site where portable toilet facilities are provided by the same contractor or person in charge of construction, provided that at least one portable toilet shall be provided for each 20 persons, or any fraction thereof, described in par. (a) who are present, or are expected to be present, on all such sites at any one time.
3. Any site, the construction on which consists solely of a residential remodeling project which does not render the permanent toilet facilities on that site temporarily unavailable for more than 24 hours, provided that adequate access to alternative facilities is available at all times to all persons described in par. (a).
4. Any site served by other toilet facilities if determined by the building inspector to be sufficient to meet the sanitation needs of all persons described in par. (a).

[Cr. 06-03, Eff. 2-23-06]

(6) RECYCLING AND MANAGEMENT OF CONSTRUCTION WASTE. Every general contractor or other person in charge of construction at a site for which a building permit is required under sub. (1) shall assure that cardboard suitable for recycling is not commingled with general waste or garbage at the site and is properly deposited for recycling at an appropriate recycling facility. Such persons shall also assure that all cardboard and other construction debris is stored and secured in such a manner as to prevent it from being carried by wind or from becoming a place of harborage for rodents.

(7) PLANS. With such application there shall be submitted a complete set of plans and specifications, including a plot plan showing the location of the proposed building with respect to adjoining roads, highways, streets, alleys, lot lines and buildings. Plans for buildings involving the State Building Code shall bear the stamp of approval of the State Department Safety and Professional Services. One plan shall be submitted which shall remain on file in the office of the Building Inspector. All plans and specifications shall be signed by the designer. Plans for all new 1- and 2-family dwellings shall comply with the provisions of Wis. Adm. Code §SPS 320.09(4).

(8) WAIVER OF PLANS. If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations, repairs or moving.

(9) APPROVAL OF PLANS. If the Building Inspector determines that the building or structure will comply in every respect with all ordinances and orders of the Village and all applicable laws and orders of the State of Wisconsin, and upon issuance of any required zoning permit, he or she shall issue a building permit which shall state the use to which said building is to be put, which shall be kept and displayed at the site of the proposed building or structure. After being approved, the plans and specifications shall not be altered in any respect which involves the safety of the building or the occupants, except with the written consent of the Building Inspector. In case adequate plans are presented for part of the building only, the Building Inspector, at his discretion, may issue a permit for that part of the building before receiving the plans and specifications for the entire building. No work is to be started unless a proper grade has been reviewed by the Public Works Department, including the grade for sidewalks, curb and gutter, driveways and general construction.

(10) FEES FOR BUILDING PERMITS AND INSPECTIONS.

(a) Fees established. Fees shall be paid by each applicant for a building permit. The amount of fees shall be determined from time to time by the Village Board by ordinance or resolution.

(b) Construction without permit. In the event any work is commenced prior to obtaining a required permit, the fee for each such permit shall be twice the amount established by the Village Board.

(c) Payment of Building Permit Fees.

1. General. Except as provided in subd. 2, building permit fees shall be paid at the time of application. No application shall be entitled to review or approval unless all applicable fees have been paid.
2. Defer of Permit Fees for Residential Development Events. Payment of permit fees for construction of new residential structures for purposes of display as part of a residential development showcase event, may be deferred until thirty (30) days after the conclusion of the event or three (3) days after the closing of the first sale of any dwelling unit in the structure, whichever occurs first. Residential development events qualifying for permit fee deferral shall be determined by the Zoning Administrator and shall include only events of regional or greater scope which are designed primarily to display to the public examples of new designs, fixtures, equipment, construction materials or methods, or other features of construction in newly constructed, unoccupied residential dwelling units. No certificate of occupancy shall be issued for any dwelling unit until the applicable permit fees have been paid. Any permit fee not paid when due shall be extended on the tax roll against the affected parcel as a special charge.

(11) INSPECTION OF WORK. (a) Initial Inspections and Issuance of Certificate of Occupancy. The builder, permittee, or his or her agent, shall promptly notify the Building Inspector when the construction is ready for any inspections required under this Code, including any applicable inspections required by the Wisconsin Uniform Dwelling Code and the Wisconsin Commercial Building Code. Upon completing the final inspection, the Building Inspector shall issue a certificate of occupancy if he or she finds that the work conforms to the provisions of the building permit and all applicable codes and ordinances. The certificate of occupancy shall contain the date and the result of such inspection, and a

duplicate certificate of occupancy shall be filed in the office of the Building Inspector. The term "certificate of occupancy" is synonymous with the term "occupancy permit" used elsewhere in other Chapters of this Code.

(b) Change in Occupancy or Use for Non-residential buildings and structures. The provisions of this section (b) apply only to public buildings and places of employment as defined under §101.01, Wis. Stats., but excluding residential buildings and structures.

1. Whenever there is a change in use or occupancy of a building or structure, a new certificate of occupancy shall be required. The owner shall submit notification of the changes in writing to the Building Inspector within five working days of the change. The information shall consist of the following:
 - a. Name and address of occupancy;
 - b. Owner's name, address and phone number(s);
 - c. Agent's name, address and phone number(s);
 - d. A description of the nature of the change in use or occupancy; and,
 - e. Other information as required by the Building Inspector.
2. No change shall be made in the use or occupancy of any building or structure, or any space within a building, structure, or space of a building or structure either in a different division of the same occupancy group or in a different occupancy group, unless the building or structure complies with the requirement of this Chapter and Chapters 5 and 15 of this Code for the new occupancy, other than temporary use changes or changes approved in advance by the Fire Inspector and Building Inspector which result in a new occupancy that will be less hazardous, based on life and fire risk, than the existing use and which are permissible under the applicable zoning restrictions.
3. An inspection by the Fire Inspector shall be required for any new or changed use or occupancy, including temporary use changes. Upon an owner submitting notification of a change in use or occupancy to the Building Inspector, the Building Inspector shall promptly notify the Fire Inspector of the notification and the need for an inspection by the Fire Inspector, who shall promptly perform such inspection. Upon the Fire Inspector completing his inspection, a new certificate of occupancy shall be issued by the Building Inspector. The Building Inspector may also inspect the building or structure prior to the issuance of the new certificate of occupancy.
4. Temporary Use. The Fire Inspector and Building Inspector may permit a building or portion of a building to be used temporarily in a manner that differs from the approved use for the building or space, or may approve a

temporary building to be used by the public, subject to all of the following provisions:

- a. The Fire Inspector and Building Inspector shall determine the timeframe within which the temporary use is permitted, based on the extent to which hazards are created by the temporary use.
- b. The Fire Inspector shall enforce the maximum occupancy load as determined by the Building Inspector.
- c. The temporary use meets all applicable fire safety and zoning requirements set forth in Chapters 5 and 15 of this Code.

(c) Fire Safety. The Fire Inspector may condition approval of a certificate of occupancy and temporary use on the installation of fire protection and control devices, and other life safety provisions that the Inspector shall determine reasonably necessary to minimize the risk to the occupants from fire or explosion.

(12) CERTIFICATE OF OCCUPANCY REQUIRED. No new building shall be occupied or otherwise used prior to the issuance of a certificate of occupancy.

(13) EROSION CONTROL REQUIREMENTS FOR CERTIFICATE OF OCCUPANCY. No certificate of occupancy shall be issued for any building constructed on any site described in §24.07(1) of this Code unless there is in place:

(a) an entrance pad or similar controls as required by Chapter 24 or a finished surface of asphalt, concrete or other appropriate material on all driveways servicing the parcel; and

(b) the erosion control measures required by Chapter 24 or a covering of grass or sod over all areas of soil sufficiently established so as to prevent erosion of the soil.

(14) REVOCATION OF CERTIFICATE OF OCCUPANCY. A certificate of occupancy may be revoked by the Building Inspector when an owner or occupant of a building or structure fails to comply with any corrective order issued by the Building Inspector applicable to that building or structure.

(15) KEY BOX REQUIREMENTS. Prior to the issuance of any certificate of occupancy, the Building Inspector shall ensure that the requirements of §5.51 of this Code are satisfied.

(16) IMPROVEMENTS REQUIRED FOR CERTIFICATE OF OCCUPANCY. In addition to all other requirements set forth in this Code for the issuance of a certificate of occupancy, the following requirements must be met prior to the issuance of a certificate of occupancy for a property:

(a) The binder course (lower lift) of asphalt for the adjoining street and the sidewalk abutting the property have been completed; and,

(b) The property owner has repaired or replaced, in compliance with Village specifications, all public improvements damaged by or resulting from the construction of the building or structure. The term "public improvements" includes, but is not limited to, grading, groundcover, utility infrastructure, street terrace trees, sidewalks, and street curbs.

(17) DURATION OF BUILDING PERMITS.

(a) Permit Lapse. A building permit shall lapse and be void unless building operations are commenced within 6 months of the issuance of the building permit, or if construction has not been completed within one year from the issuance of the building permit.

(b) Permit Extension. An application for an extension of a building permit may be submitted to the Building Inspector no less than 14 days prior to the lapse of the issued building permit. If approved, the extension shall be for 6 months, and a building permit may be extended only one time. If the permit applicant has altered the building plans then an additional plan review fee shall be submitted with the application for the extension. If construction standards have changed during the term of the original building permit, the new standards will apply for the extended building permit, and the permit applicant may be subject to additional fees if additional inspections or plan reviews are necessary.

[Am. 17-16, Eff. 06-06-17]

(18) REVOCATION OF BUILDING PERMITS. If the Building Inspector shall find at any time that applicable ordinances, laws, orders, plans and specifications are not being complied with, and that the holder of the permit refused to conform after written warning or instruction has been issued to him, he shall revoke the building, electrical or plumbing permit by written notice posted at the site of the work. When any such permit is revoked, it shall be unlawful to do any further work thereunder until the permit is reissued, except such work as the Building Inspector may order to be done as a condition precedent to the reissuance of the permit or as he may require for the preservation of human life and safety.

The Building Inspector shall revoke any permit or certificate issued under this chapter in any case where he or she finds that there has been false statement or misrepresentation of any material fact in the application or plans on which the issuance was based.

(19) REPORT OF VIOLATIONS. The police or other Village officers shall report at once to the Building Inspector any building which is being carried on without a permit as required by this chapter.

14.06 STATE CODES ADOPTED.

(1) WISCONSIN COMMERCIAL BUILDING CODE ADOPTED. Wis. Admin. Code §SPS. 361 to 366 are hereby adopted by reference and made a part of this chapter with respect to those classes of buildings to which said Chs. 361 to 366 specifically apply. Any future amendments, revisions and modifications of said administrative code incorporated herein are intended to be made a part of this code. A copy of said Chs. 361 to 366 and amendments thereto shall be kept on file in the office of the Building Inspector.

(2) WISCONSIN UNIFORM DWELLING CODE ADOPTED. Wis. Admin. Code §SPS 320 to 325, are hereby adopted by reference and made a part of this chapter and

shall apply to all new 1- and 2-family dwellings, all additions to existing and new 1- and 2-family dwellings, and all remodeling or alterations to existing 1- and 2- family dwellings. Any further amendments, revisions and modifications of said administrative code incorporated herein are intended to be made part of this code. A copy of said Chs. 320 to 325 and amendments thereto shall be kept on file in the office of the Building Inspector.

14.07 GARAGES. Private garages shall be built in accordance with the general construction standards established in the Wisconsin Uniform Dwelling Code, and the applicable standards in Chapter 15 of this Code. Whenever a garage is constructed as part of any building, the ceiling and the walls or wall separating the garage from other portions of the building shall be of not less than 45 minute fire-resistive construction as specified in Wis. Adm. Code §SPS 321.

14.08 BASEMENTS. First floor subflooring shall be completed within 60 days after the basement is excavated.

14.09 NEW METHODS AND MATERIALS. All materials, methods of construction and devices designed for use in buildings or structures covered by this code and not specifically mentioned in or permitted by this code shall not be so used until approved in writing by the State Department of Safety and Professional Services. Such materials, methods of construction and devices, when approved, must be installed or used in strict compliance with the manufacturer's specifications and any rules or conditions of use established by the State Department of Safety and Professional Services. The date, tests and other evidence necessary to prove the merits of such material, method of construction or device shall be determined by the State Department of Safety and Professional Services.

14.10 SIGNS.

(1) PERMIT REQUIRED. No sign, other than a sign excepted by §15.08(2) of this Code, shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted or structurally altered until a sign permit is issued by the Planning and Zoning Administrator and a building permit is obtained from the Building Inspector.

(2) FEES. The sign permit fees shall be determined from time to time by the Village Board by ordinance or resolution.

(3) ADDITIONAL REQUIREMENTS. All signs shall conform with the provisions of §15.08 of this Code.

14.11 UNSAFE BUILDINGS AND MOVING BUILDINGS.

(1) UNSAFE BUILDINGS. Whenever the Building Inspector finds any building or part thereof within the Village to be in his judgment so old, dilapidated or so out of repair as to be dangerous, unsafe, unsanitary or otherwise unfit for human habitation, occupancy or use, and so that it would be unreasonable to repair the same, he shall order the owner to raze and remove it at the owner's option. Such order and proceedings shall be carried out in the manner prescribed for the razing of buildings in §66.0413, *Wis. Stats.* Where the public safety requires immediate action, the Building Inspector shall enter upon the premises with such assistance as may be necessary, and cause the building or structure to be made safe

or to be removed, and the expenses of such work may be recovered by the Village in an action against the owner or tenant.

(2) MOVING BUILDINGS. See §7.11 of this Code.

14.12 OUTDOOR FURNACES REGULATED.

(1) DEFINITION. As used in this section, "Outdoor Furnace" means any device, equipment or apparatus designed for the combustion of solid fuel for purposes of providing indoor heat and/or heated water to any building or other structure, which is located outside of the building or structure.

(2) LOCATION RESTRICTIONS. No outdoor furnace shall be constructed, installed or operated except on parcels larger than 20 acres and zoned in the A-1, A-1X and A-2 Agricultural District or the C-1 Conservancy District. The Village Board may condition any land division on the removal of any outdoor furnace located on any parcel proposed to consist of less than 20 acres as a result of the land division.

(3) INSTALLATION STANDARDS. The following standards shall apply to permitted outdoor furnaces.

(a) No outdoor furnace shall be located nearer than 200 feet from any property line.

(b) No outdoor furnace shall be located nearer than 200 feet from any building intended for human occupancy other than the building served by the furnace.

(c) All outdoor furnaces shall be installed in accordance with all manufacturer's recommendations.

(d) All outdoor furnaces shall be installed upon a nominal four (4) inch permanent concrete pad of such dimensions as to allow for not less than six (6) inches of exposed surface area around the entire perimeter of the pad.

(e) Installation of any electrical or plumbing apparatus or device used in connection with the operation of the outdoor furnace shall comply with all applicable electrical and plumbing codes.

(f) All outdoor furnaces shall be equipped with a properly functioning spark arrestor.

(4) USE AND OPERATION. All outdoor furnaces shall be used and operated in accordance with the following restrictions:

(a) All outdoor furnaces shall be operated in accordance with the manufacturer's directions, except as otherwise provided herein.

(b) No industrial waste, rubber, plastic, used motor oil, toxic chemicals, hazardous waste, yard waste, painted or chemically treated wood, processed wood products, household garbage, cardboard, waste paper or animal waste shall be burned in an outdoor furnace.

(c) Outdoor furnace shall not be operated between May 31 and the next following September 1.

(d) Outdoor furnaces shall not be operated in a manner that produces excessive smoke, dust or odors.

(e) Outdoor furnaces shall meet all applicable state and federal emission standards.

(5) PERMIT REQUIRED. No person shall install, construct or connect to any building in the Village, any outdoor furnace without first obtaining a building permit from the Building Inspector and paying the applicable fee.

(6) PENALTIES. Any person who shall violate any provision of this section shall be subject to a forfeiture of not less than \$50 nor more than \$200 for a first offense. The forfeiture for a second and subsequent offenses shall be not less than \$200 nor more than \$500. Forfeitures assessed under this section shall be in addition to court costs and any additional assessments provided by law.

14.13 SWIMMING POOLS REGULATED. Permits for swimming pools shall be issued as provided in §15.04(14) of this Code.

14.14 DISCLAIMER ON INSPECTIONS. The purpose of the inspections under this code is to improve the quality of buildings and structures in the Village. The inspections and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons, a disclaimer shall be included in each inspection report as follows: "The findings of inspection contained herein are intended to report conditions of noncompliance with code standards and are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied."

14.15 PENALTIES AND VIOLATIONS. Any building or structure hereafter erected, enlarged, altered, repaired or moved, or any use hereafter established, in violation of the provisions of this chapter shall be deemed an unlawful building, structure or use. The Building Inspector shall promptly report all such violations to the Village Attorney, who shall bring an action to enjoin the erection, enlargement, alteration, repair or moving of such building or structure or the establishment of such use, or to cause such building, structure or use to be removed and may also be subject to a penalty as provided in §20.04 of this Code. In any such action, the fact that a permit was issued shall not constitute a defense, nor shall any error, oversight or dereliction of duty on the part of the Building Inspector constitute a defense. Compliance with the provisions of this subchapter may also be enforced by injunctive order at the suit of the owner or owners of any real estate within the jurisdiction of this subchapter.

SUBCHAPTER II: PLUMBING CODE

14.16 DEFINITIONS. As used in this subchapter:

(1) "Cross connection" means a connection or potential connection between any part of a water supply system and another environment containing substances in a manner that, under any circumstances, would allow the substances to enter the water supply system by means of back siphonage or back pressure.

(2) "Plumbing" includes:

(a) All plumbing as defined in §145.01(10) *Wis. Stats.*

(b) The construction, connection to or alteration of any drain, soil or waste pipe to carry domestic sewage, storm water or industrial waste from a point 3 feet outside of the foundation walls of any building to the sewer lateral at the curb or other disposal terminal including the private sewage disposal or treatment plant.

(c) Plumbing does not include minor repairs to faucets and the removal of stoppages in soil or waste pipes.

14.17 STATE CODE ADOPTED. The provisions and regulations of Ch. 145, *Wis. Stats.*, and Wis. Admin. Code §§SPS 381 to 383, are hereby made a part of this subchapter by reference and shall extend over and govern all plumbing installed, altered or repaired in the Village. Any further amendments, revisions and modifications of said statutes and administrative code incorporated herein are intended to be made part of this subchapter.

14.18 PLUMBING SUPERVISOR, POWERS AND DUTIES.

The Building Inspector:

(a) shall act as the plumbing supervisor and shall perform such duties as are provided for in §145.05(1), *Wis. Stats.*, and this code and shall make reports to the Village Board when requested.(b) shall enforce all of the provisions of this subchapter and shall prepare suitable forms for applications, permits and reports.

(c) shall be certified by the Department of Safety and Professional Services to make the necessary inspections to enforce the plumbing section of the Wisconsin Uniform Dwelling Code.

(d) may enter all buildings in the performance of the foregoing duties during reasonable hours and no person shall willfully or knowingly resist or obstruct the Building Inspector in the performance of those duties.

(e) may withhold approval of an application for a plumbing permit to any person who has not complied with a lawful order of the Building Inspector. Any person refused such a permit may appeal to the Board of Zoning Appeals within the time permitted by the rules of said board.

(f) make periodic inspections as provided in §14.22 to identify unapproved cross-connections and issue appropriate orders in connection therewith.

14.19 APPLICATIONS AND PERMITS.

(1) For new construction, no plumbing shall be installed in the Village without first filing a complete set of plans with the Building Inspector and receiving a permit. Licensed master plumbers only may receive such permits, except that a permit may be issued to a property owner to repair, maintain or install plumbing in a single family residence which is owned and occupied as the primary residence of such owner.

(2) A permit shall be applied for and received before commencing any plumbing or excavating in any street, alley or other public way to repair, alter or install plumbing.

14.20 INSPECTION OF WORK. The plumber in charge shall notify the Building Inspector whenever any work is ready for inspection (i.e., soil, vent, underground drain, final inspection). All plumbing work shall be left exposed until such time as the Inspector has completed his examination and inspection. When, in the opinion of the Inspector, a test in addition to any test required under the Wisconsin Administrative Code is necessary, he may require a water or air test in any part of or the entire installation.

14.21 CONNECTIONS TO SANITARY SEWER AND WATER SYSTEMS. No outhouse, privy or vault shall be built, constructed or maintained upon any lot or part of a lot in the Village. The owners of all lots and parts of lots in the Village where privies are now used shall connect with the sanitary sewer and water systems in such manner as prescribed by the Building Inspector and all privies shall be removed from said lots. Such privies are hereby declared to be a nuisance and a menace to health.

All plumbing, as defined in this subchapter, within the Village shall connect properly with the sanitary sewer and water mains of the Village, where such mains are available in a street, alley or public way adjoining the lot or lots upon which such plumbing exists. All septic tanks shall be removed or emptied and filled with earth. Shutoff valves shall be installed at inlet and outlet points at each meter. Each dwelling unit or business must have a separate water service connection to the water mains.

14.22 CROSS-CONNECTIONS. (1) Regulation. No person shall establish, maintain, authorize or permit the existence of an unprotected cross-connection as defined by Wis. Admin. Code §NR811.02, in or upon any property owned or controlled by such person, unless such cross-connection is protected in accordance with Wis. Admin. Code §SPS382.41.

(2) Inspections and Compliance Program.

(a) Non-Residential Inspections. The Building Inspector shall periodically inspect all non-residential buildings and premises served by the Village Water Utility for unprotected cross-connections, and shall order all such cross-connections to be immediately eliminated. The Building Inspector shall comply with the inspection and compliance procedures outlined in the "Village of DeForest Water Utility Cross-Connection Control Program Manual" dated December 17, 2013 on file with the Village Clerk. The Inspector shall keep a record of each such inspection, all orders issued under this section and all follow-up compliance inspections performed. Copies of all inspection records and other documents relating to cross-connection compliance shall be promptly filed with the DeForest Water Utility. Inspections shall be conducted at least annually, and at such other times as provided in the Cross-Connection Control Program Manual. Notwithstanding the

foregoing, if the Director of Public Services determines that any commercial property poses a risk similar to, or less than, residential properties, he or she may waive the inspection requirement under this paragraph and cause inspections of such property to be made pursuant to par. (b). The Director shall keep a record of each such designation and file a copy with the water utility.

(b) Residential Inspections. The Director of Public Services, or a qualified employee of the Water Utility, shall inspect all residential structures served by the Utility whenever any water meter is removed, replaced or serviced, whenever he or she has reason to believe an unprotected cross-connection exists, at other times when requested by the property owner and otherwise as required by the adopted Cross-Connection Control Program Manual. A record of each such inspection shall be maintained by the Utility. The inspecting employee shall order the immediate elimination of all unprotected cross-connections.

(c) Public Education. The Director of Public Services shall assure that public educational materials as provided in the adopted Cross-Connection Control Program Manual are distributed to all Water Utility customers on or before January 31, 2014 and thereafter to each new customer upon the establishment of a new service account. The materials shall also be made available to the public on the Village's website at all times and shall be provided to existing customers in written form at least once every 3 years.

[Am. 15-33, Eff. 07-07-15]

(3) Inspection Fees. Inspection fees shall be charged to owners of non-residential properties in an amount determined by the Village Board by resolution to reflect the actual cost to the Village of providing each inspection under sub. (1)(a). Inspection fees shall not apply to inspections conducted by the Water Utility under sub. (1)(b).

(4) Discontinuation of Water Service. In addition to all other penalties for violation of this section, the Director of Public Services shall cause the discontinuation of public water service, after reasonable notice, to any property which:

- (a) contains a cross-connection prohibited by this section; or
- (b) for which an inspection could not be completed due to denial of access by the owner or person in control of the premises.

[Am. 15-33, Eff. 07-07-15]

14.23 CLEAR WATERS.

(1) DISCHARGE. No person shall cause, allow or permit any roof drain, surface drain, sub-soil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump, or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private premises owned or occupied by said person to discharge into a sanitary sewer.

(2) NUISANCE. The discharge into a sanitary sewer from any roof drain, surface drain, sub-soil drain, drain from any mechanical device, gutter, ditch, pipe, conduit, sump pump or any other object or thing used for the purposes of collecting, conducting, transporting, diverting, draining or discharging clear water from any part of any private

premises is hereby declared to be a public nuisance and a hazard to the health, safety and well-being of the residents of the Village and to the protection of property.

(3) GROUND WATER. Where deemed necessary by the Building Inspector, every house shall have a sump pump installed for the purpose of discharging clear waters from foundation drains and ground infiltration and where the building is not serviced by a storm sewer shall either discharge into an underground conduit leading to a drainage ditch, gutter, dry well, or shall discharge onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

(3m) DRAIN TILES. Every basement excavated after the effective date of this section shall have a drain tile system constructed according to the specifications of Ch. Comm. Wis. Admin. Code.

(4) STORM WATER. All roof drains, surface drains, drains from any mechanical device, gutters, pipe, conduits or any other objects or things used for the purpose of collecting, conducting, transporting, diverting, draining or discharging storm waters shall be discharged either into a storm sewer, a dry well, an underground conduit leading to a drainage ditch or onto the ground surface in such other manner as will not constitute a nuisance as defined herein.

(5) STORM SEWER LATERAL. Where municipal storm sewers are provided and it is deemed necessary by the property owner and/or the Village to discharge clear waters from a parcel of land, a storm sewer lateral shall be installed and connected to the storm sewer main at the expense of the owner.

(6) CONDUCTING TESTS. If the Building Inspector or his designated agent suspects an illegal clear water discharge, as defined by this code or by any other applicable provision of the Wisconsin Administrative Code as it may from time to time be amended, he may, upon reasonable notice and at reasonable times, enter the private premises where such illegal clear water discharge is suspected and conduct appropriate tests to determine whether such suspected illegal clear water discharge actually exists.

(7) COMPLIANCE AND PENALTY. Any person determined to be in violation of any provision of this subsection shall be given a written notice stating the nature of such violation and providing a reasonable time limit for the satisfactory correction thereof. Any person who shall continue any violation beyond the foregoing time limits shall, upon conviction thereof, be subject to the penalties of §20.04 of this Code.

14.24 GREASE SEPARATORS. Grease catch basins or separators of a capacity based upon the temperature and the amount of the water tributary shall be installed wherever kitchen or other greasy wastes from hotels, restaurants, club houses, boarding houses, public or private institutions, hospitals or similar places are discharged into a public sewer or private sewage disposal system. Garbage disposal units shall not be tributary to grease catch basins or interceptors.

14.25 DUPLEX SERVICE CONNECTIONS. Each unit of a duplex shall have separate water and sewer services.

14.26 DISCLAIMER ON INSPECTIONS. The purpose of the inspections under this code is to improve the quality of buildings and structures in the Village. The inspections

and the reports and findings issued after the inspections are not intended as, nor are they to be construed, as a guarantee. In order to so advise owners and other interested persons, a disclaimer shall be included in each inspection report as follows: "The findings of inspection contained herein are intended to report conditions of noncompliance with code standards and are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation, use or durability of equipment and materials not specifically cited herein is expressed or implied."

14.27 PENALTY. In addition to the penalties specifically provided in this subchapter, any person who shall violate any provision of this subchapter shall be subject to a penalty as provided in §20.04 of this Code.

SUBCHAPTER III: ELECTRICAL CODE

14.28 ELECTRICAL PERMITS AND INSPECTION.

(1) **PERMIT REQUIRED.** No electrical work shall be installed in any building or any part thereof within the Village until a permit therefor shall first have been obtained by an electrical contractor or by the owner of the premises, except that repairs or replacement of broken or defective sockets, switches or base receptacles may be made without a permit.

(2) **APPLICATION.** Application for an electrical permit shall be made in writing upon a form furnished by the Building Inspector and shall state the name and address of the owner of the premises and the name and address of the electrical contractor.

(3) **PLANS.** With such application, there shall be submitted a set of plans and specifications showing, in detail, the electrical work for which a permit is requested. If the Building Inspector finds that the character of the work is sufficiently described in the application, he may waive the filing of plans for alterations or repairs.

(4) **APPROVAL OF PLANS.** Upon the approval of the plans by the Building Inspector, he shall issue an electrical permit.

(5) **INSPECTION OF WORK.** (a) The Building Inspector shall act as Electrical Inspector. The Electrical Inspector, as certified by the Department of Safety and Professional Services, is hereby authorized and directed to administer and enforce all the provisions of this code.

(b) The contractor shall notify the Building Inspector when ready for inspection and the Building Inspector shall inspect all electrical work when completed. All electrical wiring and installations shall be left exposed until such time as the Building Inspector has completed his inspection. No electrical service shall be connected by a power company until a notarized affidavit stating that the final electrical inspection has been made and approved has been filed with the Building Inspector. No building where electrical service has been cut off due to fire shall be reconnected until authorized by the Building Inspector. If the Building Inspector shall determine that the work has not been done in accordance with the provisions of this subchapter, the contractor shall correct the same within 10 days after receiving notice thereof. If the defective work has not been corrected within 10 days, the Building Inspector shall cancel the permit until the provisions of this subchapter have been complied with.

(6) APPEAL. In the event the electrical contractor disagrees with the decision of the Building Inspector, he may appeal such decision to the Board of Zoning Appeals within 5 days after receiving the decision of the Building Inspector. The Board shall fix a date for hearing on said appeal and shall notify both the contractor and the Building Inspector of the time of said hearing which shall be not more than 20 days after the appeal has been taken. At the hearing, both the contractor and the Building Inspector may present such evidence as they deem necessary and the Board shall render its decision promptly.

14.29 STATE CODE ADOPTED.

(1) Wis. Adm. Code §SPS 324 is hereby adopted by reference and made a part of this subchapter and shall apply to the construction and inspection of new 1- and 2-family dwellings and additions or modifications to existing 1- and 2-family dwellings.

(2) Wis. Adm. Code Ch. SPS 316 and Wis. Adm. Code Ch. PSC 114 are hereby adopted by reference and made a part of this subchapter.

[Am. 19-003, Eff. 2-16-19]

(3) Any further amendments, revisions and modifications of said code and rules incorporated therein are intended to be made a part of this subchapter.

14.30 100 AMP. SERVICE REQUIRED. Each residential dwelling unit shall have a minimum 100 amp. service.

14.31 OUTSIDE WATER METER WIRING. Wiring for each water meter shall be provided for outside meter reading.

14.32 PENALTY. In addition to the penalties specifically provided in this subchapter, any person who shall violate any provision of this subchapter shall be subject to a penalty as provided in §20.04 of this Code.

14.33 DISCLAIMER ON INSPECTIONS. The purpose of the inspections under this code is to improve the quality of housing in the Village. The inspection and the reports and findings issued after the inspections are not intended as, nor are they to be construed as a guarantee. In order to so advise owners and other interested persons, a disclaimer shall be included in each inspection report as follows: "The findings of inspection contained herein are intended to report conditions of noncompliance with code standards that are readily apparent at the time of inspection. The inspection does not involve a detailed examination of the mechanical systems or the closed structural and nonstructural elements of the building and premises. No warranty of the operation, use, or durability of equipment and materials not specifically cited herein is expressed or implied."

CHAPTER 15 ZONING CODE

15.01 SCOPE AND INTERPRETATION.	1
15.02 DEFINITIONS.	4
15.03 ADMINISTRATION AND ENFORCEMENT.	22
15.035 EXTRATERRITORIAL ZONING ADMINISTRATION.	29
15.04 GENERAL PROVISIONS.	32
15.05 SITE PLAN REVIEW.	52
15.06 LANDSCAPE PLANS.	71
15.065 LIGHTING PLANS AND STANDARDS.	82
15.07 OFF-STREET PARKING, ACCESS, LOADING.	84
15.08 SIGN PERMITS.	95
15.09 ZONING DISTRICTS; MAPS.	121
15.10 RESIDENTIAL DISTRICTS.	123
15.105 RESIDENTIAL MIX - BUSINESS DISTRICT.	131
15.11 BUSINESS DISTRICTS.	139
15.115 OFFICE AND RESEARCH DISTRICT.	155
15.12 INDUSTRIAL DISTRICTS.	162
15.13 A-1 AGRICULTURE DISTRICT.	178
15.131 A-I EXCLUSIVE (A-1 EX) AGRICULTURE DISTRICT.	181
15.132 A-2 AGRICULTURE DISTRICT.	183
15.133 A-3 AGRICULTURAL TRANSITION DISTRICT.	186
15.15 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT	189
15.155 WP WELLHEAD PROTECTION OVERLAY DISTRICT	200
15.17 NONCONFORMING USES, STRUCTURES AND LOTS.	216

15.01 SCOPE AND INTERPRETATION.

(1) **TITLE.** This chapter shall be known as and may be referred to or cited as the "DeForest Zoning Code."

(2) **INTENT AND PURPOSE.** This chapter, in conjunction with the Village Master Plan, is intended to serve the following purposes:

- (a) To secure safety from fire, panic and other dangers;
- (b) To promote the public health, safety, comfort, and general welfare;

(c) To conserve the values of property throughout the village and neighboring areas and to protect the character and stability of residential, business, and industrial areas, and to promote the orderly and beneficial development of such areas;

(d) To prevent the overcrowding of land;

(e) To avoid undue concentration of population;

(f) To provide adequate light, air, privacy, and convenience of access to property;

(g) To facilitate the adequate provision of transportation, water, sewerage, schools, parks and other public requirements;

(h) To lessen or avoid congestion in the public streets and highways;

(i) To encourage the protection of groundwater resources;

(j) To lessen or avoid hazards to persons and damage to property resulting from the accumulation or runoff of storm or flood waters;

(k) To regulate and restrict the erection, construction, reconstruction, alteration, location and use of buildings, structures, and land for trade, industry, residence, and other uses, and to regulate and restrict the intensity of such uses;

(l) To divide the village areas subject to this chapter into districts of such number, shape, area, and of such different classes, according to the use of land and buildings, and the intensity of such use, as best suited to carry out the purpose of this chapter; and

(m) To prohibit uses, buildings, or structures incompatible with the character of the respective districts.

(3) JURISDICTION AND AUTHORITY. This chapter shall apply to all lands, water and property within the corporate limits of the Village, including those owned by other municipal corporations and governmental bodies, and to all lands within the extraterritorial zoning jurisdiction of the Village when approved by the joint committee having authority over such lands. This chapter is adopted under the authority provided by §62.23, *Wis. Stats.*

(4) SCOPE OF REGULATIONS. Except as otherwise provided by this chapter, no building, structure, or land shall be used or occupied, and no building, structure, or part thereof shall be erected, constructed, reconstructed, moved, enlarged, or structurally altered, except in conformity with the provisions of this chapter governing the zoning district in which it is located. No lot shall be created which does not conform to the requirements of this chapter for the zoning district in which the land is located.

(5) RELATIONSHIP TO THE COMPREHENSIVE PLAN. The Village Comprehensive Plan shall have the force and effect ascribed to it by §66.1001 and §62.23, *Wis. Stats.* The decision as to whether and when particular elements of the Comprehensive Plan will be implemented by regulatory ordinances is reserved for the Village Board to make from time to time taking into account, among other factors, the type of development that is contemplated and the timing of such development in the context of the public interest of the Village as a whole, under the circumstances then existing and reasonably anticipated in the future. [Am. 08-14; Eff. 5-16-08]

(6) RULES OF CONSTRUCTION. The following rules shall apply in construing or interpreting the terms and provisions of this chapter:

(a) The provisions of this chapter shall be deemed the minimum requirements for the promotion and protection of the public health, safety and general welfare, and shall be construed to achieve the purposes for which this chapter is adopted.

(b) This chapter is not intended to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. In any case where the conditions, standards, or requirements imposed by this chapter are either more restrictive or less restrictive than comparable standards imposed by any other restriction, the provisions which are more restrictive or which impose higher standards or requirements shall govern.

(c) In the event there is any conflict in the limitations, requirements, or standards contained within this chapter as applied to an individual use or structure, the more restrictive provision shall apply.

(d) In the event of a conflict between the text of this chapter and any caption, figure, illustration, table or map contained or referred to herein, the text shall control.

(e) The word "shall" is mandatory in nature, establishing an obligation or duty to comply with the particular provision. The word "may" is permissive in nature.

(f) Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise. Words used in the masculine gender include the neuter and feminine gender.

(7) EFFECT ON UNLAWFUL STRUCTURES AND USES. No building, structure or use which was not lawfully existing at the time of the adoption of this chapter shall become or be made lawful solely by reason of the adoption of this chapter; and to the extent that, and in any manner that, said unlawful building, structure, or use is in conflict with the requirements of this chapter, it remains unlawful hereunder.

(8) SEVERABILITY. The various provisions of this chapter are intended to be severable. If any section, paragraph, clause, provision or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

(9) EFFECTIVE DATE. This chapter shall be effective on May 8, 1998.

15.02 DEFINITIONS.

For the purpose of this chapter the following definitions shall apply unless the context clearly requires a different meaning:

(1) ACCESSORY BUILDING OR USE. A subordinate building or use which is located on the same lot on which the principal building or use is situated, and which is reasonably necessary and clearly incidental to the permitted use of the principal building or the conduct of the principal use permitted by district regulations.

(2) ADDITION. A structural expansion to an existing building.

(2M) ADULT ORIENTED ESTABLISHMENTS. Businesses defined and regulated by §9.015 of the DeForest Municipal Code including:

(a) "Adult Bath House" means an establishment or business which provides the service of baths of all kinds, including all forms and methods of hydrotherapy, that is not operated by a medical practitioner or a professional physical therapist licensed by the State of Wisconsin and which establishment provides to its customers an opportunity for engaging in specified sexual activities as defined in §9.015(1)(qq).

(b) "Adult Body Painting Studio" means an establishment or business wherein customers are afforded an opportunity to paint images on a body which is wholly or partially nude.

(c) "Adult Bookstore" means an establishment having as a substantial or significant portion of its stock and trade in books, magazines, and other periodicals which are distinguished or characterized by their emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein. The term includes an establishment having as its stock in trade, for sale, rent, trade, lease, inspection or viewing books, films, video cassettes, compact discs, digital video discs, computers or computer programs in any format, motion pictures, magazines or other periodicals which are distinguished or characterized by their emphasis on matters depicting, describing or relating to specific sexual activities or specified anatomical areas, and in conjunction therewith have facilities for the presentation of adult entertainment, including adult-oriented videotapes, films, motion pictures or other offered entertainment for observation by customers therein. The term includes a commercial establishment that, as one of its principal business purposes, offers for sale or rental for any form of consideration instruments, devices, or paraphernalia that are designed for use in connection with "specified sexual activities."

(d) "Adult Cabaret" means a nightclub, dance hall, bar, restaurant, or similar commercial establishment that regularly features:

1. Persons who appear in a state of nudity or semi-nudity; or
2. Live performances that are characterized by "specified sexual activities"; or
3. Films, motion pictures, videocassettes, slides, or other photographic or computer reproductions or depictions that are characterized by the depiction or description of specified sexual activities" or "nudity".

(e) "Adult Entertainment" means any exhibition of any motion pictures, live performance, display or dance of any type, wherein a significant or substantial portion of such performance is distinguished or characterized by an emphasis on any actual or simulated performance of specified sexual activities, the exhibition and viewing of specified anatomical areas, or the removal of articles of clothing to reveal specified anatomical areas.

(f) "Adult Mini-Motion Picture Theater" means an enclosed building with a capacity for less than fifty (50) customers, including establishments that have coin operated video or motion picture booths, used for presenting material distinguished or characterized by an emphasis on matters depicting, describing, or relating to specified sexual activities or specified anatomical areas as defined herein for observation by customers therein.

(g) "Adult Motel" means a hotel, motel, or similar commercial establishment which:

1. Offers accommodations to the public for any form of consideration; provides customers with closed-circuit television transmissions, films, motion pictures, video cassettes, slides, or other photographic reproductions which are characterized by the depiction or description of specified sexual activities or specified anatomical areas; or
2. Offers a sleeping room for rent for a period of time that is less than ten (10) hours; or
3. Allows a tenant or occupant of a sleeping room to sub-rent the room for a period of time that is less than ten (10) hours.

(h) "Adult Motion Picture Theater" means an enclosed building with a capacity of fifty (50) or more persons at which a significant or substantial portion of the material presented is distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activities or specified anatomical areas for observation by customers therein.

(i) "Adult Motion Picture Theater (Outdoor)" means a parcel of land from which individuals may view a motion picture presented out of doors which presents material distinguished or characterized by an emphasis on matter depicting, describing, or relating to specified sexual activity or specified anatomical areas for observation by customers.

(j) "Adult Novelty Shop" means an establishment or business having as a substantial or significant portion of its stock and trade in novelty or similar items which are distinguished or characterized by their emphasis on specified sexual activities or specified anatomical areas or for simulation of the foregoing.

(k) Any other establishment which includes, but is not limited to, adult theaters, sexual encounter centers, escort agencies, establishments featuring live sexually explicit performances, and any premises to which public customers or members are invited or admitted and which are so physically arranged so as to provide booths, cubicles, rooms, compartments or stalls separate from the common area of the premises for the purposes of viewing adult oriented motion pictures, or wherein an entertainer provides adult entertainment to a member of the public, a customer or a member, whether or not such adult entertainment is held, conducted, operated or maintained for profit, direct or indirect. An adult oriented establishment further includes, without being limited to, any adult entertainment studio or any premises that is physically arranged and used as such

whether advertised or represented as an adult entertainment studio, rap studio, exotic dance studio, encounter studio, sensitivity studio, modeling studio or any other term of like import.

(L) "Adult Oriented Establishment" shall not include:

1. theaters, performing arts centers, civic centers, and dinner theaters where live dance, ballet, music and dramatic performances of serious artistic, social or political merit are offered on a regular basis; and in which the predominant business or attraction is not the offering of entertainment which is intended for the sexual interests or titillation of customers; and where the establishment is not distinguished by an emphasis on or the advertising or promotion of nude or semi-nude performances; or
2. any public or private school, as defined in Chapter 115, Wis. Stats., when instructing pupils as part of its curriculum.
[Cr. 06-06; Eff. 6-9-06]

(2s) AGRICULTURAL USE. Any of the following activities conducted for the purpose of producing an income or livelihood:

- (a) Crop or forage production.
- (b) Keeping livestock.
- (c) Beekeeping.
- (d) Nursery, sod, or Christmas tree production.
- (e) Floriculture.
- (f) Aquaculture.
- (g) Fur farming.
- (h) Forest management.

(i) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

[cr. 15-044; Eff. 12-24-15]

(2u) AGRICULTURAL ACCESSORY USE. Any of the following land uses on a farm:

- (a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- (b) An activity or business operation that is an integral part of, or incidental to, an agricultural use.
- (c) A farm residence.

(d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland. Such activities may include, but are not limited to:

1. Sale of agricultural and dairy products not produced on the premises and incidental sale of non-alcoholic beverages and snacks.

2. The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those residing on the premises, but not including the storage of a dealer's inventory.
3. Agricultural entertainment activities exceeding 45 days per year, in aggregate, or events planned or anticipated to attract 200 or more persons per day.
4. Farm related exhibitions, sales or events such as auctions, dairy breakfasts, exhibitions of farm machinery and technology, agricultural association meetings and similar activities, occurring on more than five days in a calendar year.
5. Horse boarding stables, riding stables, hay and sleigh rides, and horse training facilities, including the sale of bridles, saddles, grooming supplies and related items at a horse boarding or riding stable facility.
[cr. 15-044; Eff. 12-24-15]

(3) ALLEY. A narrow public right-of-way, not over 20 feet in width, which is used primarily as a means of access to the rear of residences or business establishments and which affords only a secondary means of access to the property abutting along its length.

(4) ALTERATION. Any change in, addition to, or modification of a building or structure.

(4a) ANIMAL UNIT. One animal unit shall be defined as being the equivalent of 1 cow, 4 hogs, 10 sheep, 10 goats, 100 poultry, 1 horse, 1 pony, 1 mule or 100 rabbits or an equivalent combination thereof. Other animals not listed above shall be assigned an animal unit equivalent by the Zoning Administrator based on their typical adult weight.
[Cr. 08-14; Eff. 5-16-08]

(4m) AQUIFER. A saturated, permeable, geologic formation that contains, and will yield, significant quantities of water.

[Cr. 13-006, Eff. 4-4-13]

(5) ARTERIAL. A public street that serves longer intra-urban trips and traffic traveling through the urban area and has limited to no direct access for abutting land uses, including any public street designated as an arterial street within the Village's comprehensive plan.
[Am. 11-10; Eff. 4-15-11]

(6) AWNING. A movable shelter supported entirely from the exterior wall of a building and of a type which can be retracted, folded or collapsed against the face of the supporting building.

(7) [Repealed 08-27; Eff. 8-22-08]

(8) BUILDING. Any covered structure built for the support, shelter or enclosure of persons, chattels or movable property of any kind, and which is permanently affixed to the land.

(9) BUILDING BULK REGULATIONS: Restrictions controlling the size of buildings or other structures and the relationship of buildings, structures and uses to each other and to open areas and lot lines, including restrictions controlling height, lot coverage, floor area ratio and size of yards.

(10) BUILDING HEIGHT. The vertical distance measured from the mean elevation of a finished lot grade along the front of a building to the highest point of the coping of a flat roof or the deck of a mansard roof, or to the mean level between the eaves and the ridge of a gable, hip or gambrel roof, or to the highest point of a shed roof.

(11) BUILDING, PRINCIPAL. Any building in which a primary or independent use of the lot on which it is located is conducted.

(12) BUILDING COVERAGE. The percentage of the building area in relation to the total lot area.

(12j) CAMPGROUND. A parcel or tract of land, maintained, intended or used for the purpose of supplying temporary or overnight living accommodations to the public by providing designated areas for the placement of trailers, tents, buses, recreational vehicles, camping cabins, yurts, automobiles, or sleeping bags, and which may include buildings to provide services to the patrons such as restrooms, bathing, laundry, playgrounds, pools, convenience product purchase, and commissary facilities.

(12m) CAMPING. Human habitation of a camping cabin, camping unit or resort cabin.

(12o) CAMPING CABIN. A camping unit that is a hard sided tent, shelter, or yurt, which is designed to be moveable.

(12p) CAMPING UNIT. Any structure, equipment, or vehicle intended for temporary sleeping accommodations for recreation or travel, not more than 400 square feet in area, including recreational vehicles (RV's), camping trailer, pick-up trucks with sleeper attachments, motor homes, camping trailers, tents, park models, camping cabins, and similar equipment.

(12q) CAMP SITE. A clearly signed piece of land within a camp ground that provides a location for camping units(s), with its location delineated on a campground site plan map.

(12r) CAMPING TRAILER. A folding structure mounted on wheels and designed to be transported and stored in a collapsed position and opened to create usable dwelling space at a destination where it is used for travel, recreation, vacation or other temporary uses.

(13) CERTIFICATE OF OCCUPANCY. A certificate issued by the building inspector after final inspection, when it is found that the building, structure and/or development complies with all requirements of this chapter, other applicable chapters of the Code, and Village approved plans.
[Am. 13-021, Eff. 10-10-13]

(14) CLASS 1 OR CLASS 2 NOTICE. A notice published in accordance with the requirements of a class 1 or class 2 notice under Chapter 985 of the Wisconsin Statutes.

(14C) CLUSTER BOX UNIT. A U.S. Postal Service-approved centralized mail receptacle designed for the placement of delivered mail for eight or more housing units or tenant spaces in a single building or development.

(14J) COLLECTOR. A public street that collects and distributes internal traffic within an urban area, such as within a residential neighborhood, providing access between local and arterial

streets and limited access for abutting land uses, including any public street designated as a collector street within the Village's comprehensive plan.

[Cr. 11-10; Eff. 4-15-11]

(14M) COMMERCIAL PARKING LOT. Any lot or portion thereof which is designed or intended to provide a place for the parking of automobiles, trucks, trailers, recreational vehicles, motorcycles or other motorized vehicles while the operator thereof pursues activities away from the premises. "Commercial Parking Lot" shall not include any parking area which is designed and used exclusively to satisfy the off street parking requirements established by this Code.

(15) COMMON OPEN SPACE. Land that is devoid of structures, other than recreational facilities, and that is suitable and made available for use by the general public or occupants of all occupants of a planned unit development or other multiple-owner development, for active and passive recreational activities, exclusive of any areas used for parking lots, street rights-of-way, front, rear and side yard setbacks, school sites, and retention or detention ponds.

(16) COMMON OWNERSHIP. The ownership by the same individual(s) or entity(ies) of two (2) or more adjacent lots.

(16m) COMPREHENSIVE PLAN. A plan for guiding the physical growth, change, and preservation of the Village and its extraterritorial jurisdiction, adopted and from time to time amended by the Village of DeForest Board under the provisions and to the specifications of §66.1001, Wis. Stats., except that where the word "town" is used before the words Comprehensive Plan, the term Comprehensive Plan means that plan adopted by the appropriate town under §66.1001, Wis. Stats.

[Am. 08-14; Eff. 5-16-08]

(17) CUL-DE-SAC. A street with a single ingress and egress, and turnaround.

(17m) DAYCARE CENTER. A place which provides care for four (4) or more persons for periods of less than 24 hours per day under a license granted by the State of Wisconsin.

(18) DEVELOPER. Any subdivider, person, firm, partnership, joint venture, association, corporation or other entity participating as owner, promoter or developer in the planning, platting, development or promotion of lands which are subject to the provisions of this chapter.

(19) DOMESTIC ANIMAL. Includes dogs, cats, rodents, birds, reptiles, pot-bellied pigs weighing less than 70 pounds, and any other species of animal which is sold or retained as a household pet, but does not include skunks, primates and other species of wild, exotic or carnivorous animals that may be further restricted in this article chapter.

(19J) DONATION BIN. A free-standing receptacle located outside of a building that is used for the collection of clothing, shoes, or other contributions, generally collected from persons not occupying the premises on which the receptacle is located and with such contributions generally intended for reuse elsewhere. The term does not include a trash container or recycling bin designed to contain waste from a household, business, or other land use on the same premise.
[Cr. 12-09, Eff. 5-24-12]

(20) DRIVE-IN. An establishment which is designed to provide, either wholly or in part, service to customers while they remain in their automobiles parked upon the premises.

(21) DRIVE-IN RESTAURANT. An establishment designed, in whole or in part, to take, fill, and deliver orders of food or beverages to customers while they remain in their auto mobiles.

(22) DWELLING. A building, or portion thereof, not including any mobile home, house trailer, recreational vehicle, hotel or motel, designed or used exclusively for residential occupancy and authorized accessory uses. "Dwelling" shall include a structure manufactured after June 15, 1976 which is certified and labeled as a manufactured home under 42 U.S.C., §§5401 to 5426 as amended, and which when placed on site:

- (a) Has any wheels, axles, and pulling apparatus removed and is fastened or attached to, a completely enclosed foundation in accordance with §70.043(1), Wis. Stats. and Wis. Admin. Code Chapter ILHR 21. Subchapters III, IV and V, as amended;
- (b) Is installed in accordance with the manufacturer's instructions;
- (c) Is properly connected to sewer, water and electric utilities;
- (d) Is a minimum of 22 feet wide; and
- (e) Is covered by a permanent roof with a pitch of no less than 3:12 and a non-reflective roof covering.

(23) DWELLING UNIT. A room or group of rooms providing living quarters for not more than one (1) family, and having only one kitchen area.

(24) EASEMENT. A recorded, reasonably permanent, interest in land owned by another which entitles the holder thereof to specific uses of such land without the payment of periodic rent.

(25) ELDERLY. A person who is 55 years of age or older or a family, the head of which, or that person's spouse, is 55 years of age or older.

(26) ELDERLY HOUSING. One or more residential dwelling units intended for and occupied by the elderly, or which is intended for and operated for occupancy by persons 55 years or older if; a) at least 80% of the occupied units are occupied by at least one person age 55 or older, b) the facility has published and adheres to policies and procedures demonstrating an intent to operate the facility for persons age 55 years or older, and c) the facility complies with all rules associated with elderly housing promulgated by the Secretary of Housing and Urban Development applicable to the facility.

(26m) ETZ AREA. The area consisting of all of the lands within Village extraterritorial zoning jurisdiction as provided by §62.23(7a), Stats. and designated either by Village Board Resolutions 95-46 and 2007-055, or any adopted cooperative plan under §66.0307, Stats.
[Am. 08-14; Eff. 5-16-08; Am. 12-09, Eff. 5-24-12]

(26t) FARM. All land under common ownership that is primarily devoted to agricultural use.

[cr. 15-044; Eff. 12-24-15]

(26q) EXISTING FACILITIES. Pertaining to the wellhead protection regulations in this chapter, those facilities, practices, or activities existing as of January 1, 2013 and in continuous operation since that date, which may cause or threaten to cause environmental pollution within the WP Wellhead Protection overlay zoning district. Existing facilities include but are not limited

to the type listed in the Department of Natural Resources' form 3300-215, Public Water Supply Potential Contaminant Use Inventory Form, incorporated herein as if fully set forth.

[Cr. 13-006, Eff. 4-4-13]

(27) FAST FOOD RESTAURANT. An establishment whose principal business is the sale of pre-prepared or rapidly prepared food to the customer in a ready to consume state for consumption either within the restaurant building or off the premises, and whose design or principal method of operation includes two or more of the following characteristics:

(a) The elimination, in whole or in part, of table service, thus requiring customers to place orders at the counter where the orders are filled.

(b) The food is usually served in edible containers or in paper, plastic or other disposable containers.

(c) The facilities for on premises consumption of food are insufficient for the volume of customers served by the establishment.

(d) The restaurant provides a drive-up facility for placing and receiving food orders.

(28) FAMILY. An individual or two or more persons related by blood, marriage or adoption living together as a single housekeeping unit in a dwelling unit; or a group of not more than four (4) persons who need not be related by blood, marriage or adoption, living together as a single housekeeping unit in a dwelling unit; plus, in either case, domestic servants.

(28v) FARM OPERATOR. A person who, or a family at least one member of which, earns substantial farm income, as defined in section 15.02(89j), from farm operations on the farm.

(28x) FARM RESIDENCE. Any of the following structures that is located on a farm:

(a) A single-family residence that is occupied by any of the following:

1. A person who is both the owner and operator of the farm.
2. A parent or child of an owner-operator of the farm.
3. An individual who earns more than 50 percent of his or her gross income from the farm.

(b) A migrant labor camp that is certified under Section 103.92, Wisconsin Statutes.

[cr. 15-044; Eff. 12-24-15]

(29) FLOOR AREA.

(a) For the purpose of determining the floor area ratio, the Floor Area of a building is the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls or from the center line of party walls separating two buildings. The floor area of a building shall include: the basement floor area when more than one-half of the basement height is above the established curb level or above the finished lot grade level where curb level has not been established, elevator shafts and stairwells at each floor; floor space used for mechanical equipment (except equipment located on the roof), penthouses, attic space having headroom of 7 feet 10 inches or more, interior balconies and mezzanines, enclosed porches and

floor area devoted to accessory uses. Space devoted to off-street parking or loading shall not be included in the floor area.

(b) The floor area of structures devoted to bulk storage of materials including, but not limited to, grain elevators and petroleum storage tanks shall be computed by counting each twelve feet (12') of height, or fraction thereof, as being equal to one floor.

(c) For the purpose of determining the number of required off-street parking spaces and loading berths, Floor Area shall mean the sum of the gross horizontal areas of the several floors of the building, or portion thereof, which are devoted to the principal use of the premises, including accessory storage areas located within selling or working space such as counters, racks or closets, any basement floor area devoted to retailing activities and any floor area devoted to the production or processing of goods or to business or professional offices. For this purpose, Floor Area shall not include floor area devoted primarily to storage purposes (except as otherwise noted herein); floor area devoted to off-street parking or loading facilities, including aisles, ramps, and maneuvering space; or basement floor area other than area devoted to retailing activities, to the production or processing of goods, or to business or professional offices.

(30) FLOOR AREA RATIO (F.A.R.): The floor area ratio of buildings or structures on any lot is the percentage determined by dividing the total floor area of all such buildings or structures by the area of the lot on which they are located or, in the case of planned developments, by the net site area.

(31) [Repealed 08-27; Eff. 8-22-08]

(32) FRONTAGE, STREET. The linear frontage(s) of a lot or parcel abutting on a private or public street which provides principal access to, or visibility of, the premises.

(32m) GASOLINE SERVICE STATION. A commercial facility, one of the primary functions of which is the retail sale of gasoline to motorists and which may also provide minor repair services, the sale of convenience items and other motor vehicle fuels and supplies.

(32t) GREEN SPACE. Any area included within a lot that (a) is not defined as an impervious surface under this section and (b) maintains living vegetation.

[Cr. 06-06; Eff. 6-9-06]

(33) GROSS FLOOR AREA (GFA). The total floor area, including the exterior building walls of the several floors of a building or structure used privately or by the public as customers, patrons, clients, patients, or members. GFA shall include all occupied areas minus the following deductions:

(a) Parking areas within the structure;

(b) Rooms occupied only by permitted specialized automatic mechanical or electrical equipment or apparatus;

(34) GROSS LEASABLE AREA (G.L.A.). Gross leasable area is the total floor area designed for the tenants' occupancy and exclusive use (including but not limited to basements, kitchens, restrooms, storage rooms, private corridors, stairways, mezzanines and upper floors), expressed in square feet and measured from the centerline of interior walls or other interior tenant partitions and from outside wall faces. G.L.A. does not include public or common areas; i.e., public

restrooms, corridors, stairwells, elevators, lobbies or mall areas nor does it include mechanical rooms, equipment and/or machine rooms or mechanical chases.

(35) HAZARDOUS MATERIALS. Flammable or explosive materials, petroleum or petroleum based products, oil, crude oil, methane gas or synthetic gas usable for fuel, volatile organic compounds (VOCs), radioactive materials, or hazardous toxic or dangerous waste, substance or related materials including, without limitations, the following:

(a) Those substances, materials and wastes listed in the United States Department of Transportation Hazardous Materials Table (49 CFR 172.101) or listed as "hazardous material" or "hazardous waste" as defined by the Environmental Protection Agency at 40 CFR Part 302, and amendments thereto and replacements therefore;

(b) Such substances, materials or wastes as are regulated by the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901, *et seq.*) as amended and any successor statute or orders, regulations, directions or requirements thereunder;

(c) Such substances, materials or wastes as are regulated by the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S.C. 9601, *et seq.*) as amended and any successor statute or orders, regulations, directions or requirements thereunder (including, but not limited to PCB's, asbestos and radon); and

(d) Such hazardous or toxic substances, materials or wastes that are regulated under any other applicable federal, state, county, or municipal law, rule, ordinance, order or regulation.

(36) HOME OCCUPATIONS. The operation of limited commercial activities within a dwelling unit by the occupant of the unit, as an accessory use on land principally used for residential purposes.

(37) ILLUMINATION, DIRECT. Lighting by means of an unshielded light source, including neon tubing, which is effectively visible as a part of a sign where light travels directly from the source to the viewer's eye.

(38) ILLUMINATION, INDIRECT. Lighting by means of a light source which is directed at a reflecting surface in such a way as to illuminate that surface.

(39) ILLUMINATION, INTERNAL. Lighting by means of a light source which is within a sign having a translucent background, silhouetting opaque letters or designs, or which is within letters or designs which are themselves made of a translucent material.

(40) IMPERVIOUS SURFACE. Any area covered by material that substantially reduces or prevents the infiltration of stormwater into previously undeveloped land. Impervious surface shall include, but not be limited to buildings, driveways, parking areas, sidewalks and patios.

(40g) INSTITUTIONAL FACILITY OR USE. A type of land use or facility that provides a public service and is operated by a governmental entity, public or private utility, public or private school, church or other religious institution, or other tax-exempt organization.

[Cr. 08-27; Eff. 8-22-08]

(40m) JOINT COMMITTEE. The Joint Extraterritorial Zoning Committee appointed from time to time to act on matters affecting the ETZ Area pursuant to §62.23(7a), Wis. Stats. and sec. 15.03(3a) of this Code. [Am. 08-14; Eff. 5-16-08]

(41) KENNEL. Any premises, except where accessory to an agricultural use, where domestic animals, such as dogs and cats, are boarded, trained or bred for commercial purposes.

(42) LIGHT SOURCE. Includes neon, fluorescent or similar tube lighting, the incandescent bulb, including the light producing elements therein, and any reflecting surface which, by reason of its construction and/or placement, becomes, in effect, the light source.

(42g) LIVESTOCK. Domestic animals traditionally used in Wisconsin in the production of food, fiber, or other animal products. Livestock includes bovine animals, equine animals, goats (except pygmy), poultry, sheep, swine (except pot bellied pigs), farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish. [cr. 15-044; Eff. 12-24-15]

(42m) LOCAL STREET. A street designed to provide access to abutting land uses and leading into a collector or occasionally into an arterial street, but which is not designed to carry through traffic from outside the neighborhood where it is located.

[Cr. 11-10; Eff. 4-15-11]

(43) LOT. Any individual parcel under a single form of ownership created by the most recent recorded plat or certified survey map of the land, or any tract of land identified as a single parcel in the most recent conveyance of the tract recorded with the Dane County Register of Deeds where no plat or certified survey has been recorded, exclusive of any part thereof lying within a street right-of-way.

(44) LOT AREA. The area of a horizontal plane bounded by the front, side, and rear lot lines, exclusive of any area within the ordinary high water mark of any navigable water or a street right-of-way.

(45) LOT, CORNER. A lot which adjoins the point of intersection of two or more street rights-of-way and in which the interior angle formed by the street lines is 135 degrees or less. If the street lines are curved, the Zoning Administrator shall determine the angle of intersection based on information specific to the lot.

[Am. 06-06; Eff. 6-9-06; Am. 13-021, Eff. 10-10-13]

(46) LOT COVERAGE. The area determined by dividing that part of the lot area occupied or covered by all buildings, covered porches, decks, accessory buildings, sidewalks, driveways and all other impervious surfaces, by the total lot area.

[Am. 06-06; Eff. 6-9-06]

(47) LOT LINE, FRONT. The boundary of a lot adjacent and parallel to a street right-of-way. For corner lots and other double frontage lots, the lot line along the street from which the house is addressed shall be the front lot line, except where otherwise approved by the Zoning Administrator based on circumstances that are unique to the site.

[Am. 13-021, Eff. 10-10-13]

(48) LOT LINE, REAR. The boundary of a lot which is most distant from and is, or is most nearly, parallel to the front lot line. If a rear lot line is less than 15 feet long, or if the lot comes to a point at the rear, the rear lot line shall be a line at least 15 feet long, lying wholly within the lot, parallel to the front lot line.

(49) LOT LINE, INTERIOR SIDE. Any boundary of a lot that is not a front lot line, a street side lot line, or a rear lot line.

[Am. 13-021, Eff. 10-10-13]

(49g) LOT LINE, STREET SIDE. For corner lots, the lot line that abuts a public or private street but that is not the front lot line.

[Cr. 13-021, Eff. 10-10-13]

(50) LOT OF RECORD. A lot which is part of a subdivision or land division, the plat or certified survey map of which has been recorded in the office of the Dane County Register of Deeds.

(51) LOT WIDTH. The horizontal distance between the side lot lines of a lot, measured at the normal minimum front yard setback line in the zoning district where the lot is located, or at some other specifically delineated front yard setback if approved by the Village Board as part of a final plat or certified survey map.

[Am. 08-14; Eff. 5-16-08]

(52) LOT, ZONING. A parcel of land composed of one or more lots of record, occupied or to be occupied by a principal building(s), or principal use(s), along with permitted accessory buildings or uses, meeting all the zoning requirements of the district in which it is located.

(52m) MICROBEVERAGE PRODUCTION FACILITY. A type of land use that produces beer, wine, spirits, and/or coffee product, and often includes a tasting or tap room and on-site purchase of beverages produced and related products. Except as may be further limited by zoning district, includes a microbrewery that brews no more than 15,000 barrels per year on site, a microdistillery or microwinery/small winery that produces no more than 15,000 gallons per year on site, a microroastery/small batch roaster that produces no more than 15,000 pounds per year on site, or some combination with proportional limits. Does not include a "brewpub," which is instead accessory to a restaurant use as described in subsection (80).

[Cr. 23-08, Eff.]

(53) NET ACREAGE. The gross acreage of a parcel of land minus the acreage devoted to street rights-of-way, retention basins, wetlands, woodland, flood plains, stream corridors, areas with slopes greater than twenty percent (20%), and other natural features.

(54) MARQUEE. A permanently roofed structure attached to and supported by a building, and projecting from the building.

(55) MASTER PLAN. The use of this term is synonymous with the term "comprehensive plan," defined elsewhere in this section.

[Am. 08-14; Eff. 5-16-08]

(56) MINERAL EXTRACTION (METALLIC). The process of removing metals or metallic ores from beneath the surface of the ground by digging, grinding, blasting or other customary commercial means.

(57) MINERAL EXTRACTION (NON-METALLIC). The process of removing sand, gravel, rock, clay or other inorganic material from beneath the surface of the ground by digging, grinding, blasting or other customary commercial means.

(58) MOBILE HOME. A prefabricated unit with walls of rigid construction that is designed to be towed as a single unit or in sections upon a highway by a motor vehicle and that is used or is intended to be used for human habitation other than a "manufactured home" defined as a dwelling by sub. (22).

(59) MOBILE HOME PARK. A lot not less than three acres in area upon which two or more mobile home units occupied for dwelling or sleeping purposes and located regardless of whether or not a charge is made for such accommodation.

(60) MOTEL OR HOTEL. A building or group of buildings which contain living or sleeping accommodations for transient occupancy which may or may not have individual entrances from outside.

(60m) NATIVE WILDLIFE REHABILITATION. The treatment or rehabilitation of injured or sick native wildlife conducted pursuant to a license or permit issued by the United States Department of Interior, Fish and Wildlife Service and/or the Wisconsin Department of Natural Resources

(61) NOISE. Any sound which is unwanted or which causes or tends to cause an adverse psychological or physiological effect on human beings.

(62) NONCONFORMING BUILDING OR STRUCTURE. A building or structure which was constructed legally under the zoning regulations in effect at the time, but does not fully comply with the current standards of this Chapter 15 that would apply to such buildings or structures.
[Am. 11-10; Eff. 4-15-11]

(63) NONCONFORMING RECORDED LOT. A lot of record which does not meet the dimensional requirements of the particular district in which it is located solely because of the enactment or amendment of this chapter after the lawful creation of lot of record or because of the acquisition of a portion of the lot by a governmental agency for public purposes. Does not include recorded outlots that are restricted from building development.
[Am. 13-021, Eff. 10-10-13]

(64) NONCONFORMING USE. An active and actual use of land, building(s), or structure(s) that was lawfully established prior to enactment or amendment of this chapter, that has continued as the same use to the present, and that does not comply with all the subsequently enacted use regulations of this chapter.
[Am. 13-021, Eff. 10-10-13]

(65) NURSERY. Any land used to raise trees, shrubs, flowers and other plants for sale or for transplanting.

(66) NURSING HOME. A home licensed by the State of Wisconsin for the aged, chronically or incurably ill persons in which five or more such persons not of the immediate family are provided with food and shelter or care for compensation, but not including hospitals, clinics or similar institutions devoted primarily to the diagnosis and treatment of the sick or injured.

(67) OCCUPANCY. The purpose for which a building is used or intended to be used. The term shall also include the building or room housing such use. For purposes of this Chapter, change of occupancy is not intended to include change of tenants or proprietors.
[Am. 13-021, Eff. 10-10-13]

(68) OPEN SPACE. That space which is suitable primarily for private or public use, including space available for recreation or landscaping, which is open to the sky, free of automobile traffic, parking, outdoor storage, or structures other than authorized recreational structures.

(69) ORDINARY HIGH-WATER MARK. The highest point on the bank of a navigable waterway at which the level has been maintained or has periodically recurred for a sufficient period of time to leave a definite mark.

(70) ORIGINAL SEALED CONTAINER. The container in which a product was originally shipped from the manufacturer, with a capacity of not more than 55 gallons.

(71) OWNER. The person or persons holding legal title or the unconditional right to purchase land.

(72) OFF-STREET LOADING. An area or space adjacent to a building or structure which is readily accessible to vehicular traffic from a street, alley, or other public way, and which is set aside for the exclusive use of trucks or other vehicles while loading or unloading merchandise or materials.

(73) OFF-STREET PARKING. An area readily accessible from a street, alley or other public way, that is set aside for the exclusive use for temporary parking of automobiles and other vehicles which are fully registered, licensed, and operative, while the owners thereof are engaging in the pursuit of any permitted use of the property for which the parking is provided.

(73m) PARK MODEL. A camping unit that is built on a single chassis mounted on wheels and certified by the manufacturer as complying with ANSI Standard A119.5.

(74) PENNANT. Any lightweight plastic, fabric or other material, whether or not containing a message of any kind, suspended from a rope, wire, or string, usually in a series and designed to move in the wind.

(74a) PORCH. A covered, but not enclosed, area adjoining an entrance to a residential building, and designed to provide some measure of shelter from the elements.

[Am. 07-05; Eff. 02-09-07]

(74e) PORTABLE OUTDOOR STORAGE UNIT. A portable storage container with more than two hundred and sixteen (216) cubic feet of storage space designed and used primarily for temporary storage and/or transportation of household goods and other such materials, kept outdoors, and not affixed to a foundation. The term does not include storage sheds constructed of wood, plastic or steel which are located on a permanent or temporary foundation, not intended to be moved or relocated on a regular basis, and in compliance with all Village setback and other requirements. Nor does the term include construction trailers or temporary storage units utilized by contractors or developers incidental to the ongoing construction of structures, public improvements or utilities or other aspects of property development.

[Cr. 10-04, Eff. 2-4-10].

(75) PROFESSIONAL OFFICE. The office of a person or persons 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.

(76) PUBLIC BUILDING. Any building held, used or controlled exclusively for public purposes by any federal, state, county or local governmental body or a department or branch thereof, without regard to the ownership of the building or of the land upon which it is situated.

(77) PREMISE. Land and any buildings or structures thereon.

(78) [Repealed 07-37; Eff. 12-7-07]

(79) ROADSIDE STAND. A structure having a ground area of not more than 200 square feet, not permanently attached to the ground, readily removable in its entirety and used solely for the sale of farm and garden product produced on the premises.

(80) RESTAURANT. An establishment designed as a principal use to accommodate the preparation, sale, and consumption of food and beverages, for on-site consumption, take-out, and/or delivery. Includes a brewpub producing fewer than 2,000 barrels of beer per year, permitted under §125.295, Wis. Stats., where beer is primarily produced for on-site consumption. [Am. 23-08, Eff.]

(80m) ROAD MACHINERY. Any moveable equipment designed for use in road building or repair or other construction projects, including, but not limited to tractors, both wheeled and crawler types, graders, end loaders, scrapers, bulldozers, cranes, back hoes, drag lines, "cherry pickers" and compressors designed to be towed by a motor vehicle.

(80r) SALVAGE RECYCLING CENTER. A building and/or property where waste or scrap vehicles, equipment, and other materials are bought, sold, exchanged, stored, recycled, baled, packed, disassembled and/or handled, including, but not limited to, motor vehicles, farm equipment, scrap iron and other metals not resulting from building demolition, tires, and related materials typically associated with a salvage yard or junk yard. The term also includes motor vehicle wrecking or dismantling yards, but does not include a solid waste recycling center as defined in sub. (86m).

[Am. 20-27, Eff. 12-25-20]

(81) SETBACK, BUILDING. The horizontal distance between the property line and any structure.

(82) SCREENING. The process or materials by which a building, structure, activity, area or object is concealed or obscured from view.

(83) SIGN. Any object, device, display, structure, or part thereof, situated outdoors and in view of the general public, which is used to advertise, identify, display, direct or attract attention to an object, person, institution, organization, business, product, service, event, or location by any means, including words, letters, figures, logos, symbols, fixtures, or projected images. Signs do not include the flag or emblem of any nation; organization of nations; state; Village; or religious, fraternal, or civic organization. Signs do also not include merchandise and pictures or models of products or services incorporated in a window display, works of art which in no way identify a product, or scoreboards located on athletic fields. Building colors and outline lighting which do not convey a logo or message specific to the use, as determined by the Zoning Administrator, are not considered signs. Definitions of particular functional, locational, and structural types of signs are listed in Section 15.08. Traffic control and other public agency signs located within a right-of-way are not included within this definition and are not regulated by the provisions of this chapter. [Repealed and recr. 08-27; Eff. 8-22-08]

(84) SMALL SOLAR ENERGY SYSTEM. An energy system that converts solar energy to usable thermal, mechanical, chemical, or electrical energy, where such solar energy system is accessory to the principal use of the lot (such as a solar panel system providing energy for a dwelling on the same lot), and primarily supplies energy to such principal use. [Cr. 10-04, Eff. 2-4-10]

(85) SMALL WIND ENERGY SYSTEM. An energy system that converts wind energy to usable thermal, mechanical, chemical, or electrical energy, where such wind energy system is accessory to the principal use of the lot (such as a wind turbine system providing energy for a dwelling on the same lot), primarily supplies energy to such principal use, and does not exceed a rated capacity of 60 kilowatts.

[Cr. 10-04, Eff. 2-4-10]

(86) [Repealed 08-27; Eff. 8-22-08]

(86m) SOLID WASTE RECYCLING CENTER. A facility and land use where recyclable materials, including building materials and consumer materials such as paper, cardboard, glass, plastic, metal, and compost, are collected, sorted, separated, compacted, baled, and/or temporarily stored. Does not include any remanufacture of products from recycled materials, waste or recyclable material disposal or landfilling, salvage recycling centers as defined in sub. (80r), or reverse vending machines for consumer recyclables occupying not more than 36 square feet.

[Am. 20-27, Eff. 12-25-20]

(87) STORY. That portion of a building included between the surface of any floor and the surface of the floor next above it, or if there is no floor above it, then the space between the floor and the ceiling next above it. Any portion of a story exceeding twelve feet (12') in height shall be considered as an additional story for each twelve feet (12') or fraction thereof.

(88) STREET. A dedicated public or private right-of-way, whether denominated a street, highway, road, boulevard, avenue, or otherwise, which affords a primary means of vehicular access to an abutting property.

(89) STRUCTURE. Anything constructed or erected which is permanently or temporarily affixed to the ground.

(89A) SUBDIVISION SIGN. A sign showing the name of a subdivision placed at the entrance of the subdivision. No commercial message permitted.

(89j) SUBSTANTIAL FARM INCOME. A minimum of \$10,400 gross farm income per year for the past three years derived from the farming operation on the farm. Rental income is not considered farm income for this definition. [cr. 15-044; Eff. 12-24-15]

(90) TERRACE. An outdoor area, accessory to a principal building, constructed of stone, pavers, concrete or similar impervious surface, often elevated above natural grade but applied directly on the ground in one or more level surfaces adjacent to the principal building.

(91) TOXIC MATTER. Material which is capable of causing injury to living organisms by chemical means when present in relatively small amounts.

(91m) TOWN. Town of Vienna, Town of Burke, Town of Windsor, or Town of Westport, as the context requires.

[Am. 08-14; Eff. 5-16-08; Am. 12-09, Eff. 5-24-12]

(91p) TOWNHOUSE: A townhouse consists of three to eight dwelling units, each having at least one individual exterior entry, ground floor living space, and at least one common wall with an adjacent dwelling unit.

[Cr. 11-10; Eff. 4-15-11]

(92) UNIFIED BUSINESS CENTER. A group of two or more professional, office, commercial or industrial establishments, or any combination thereof, that are planned, developed, owned or managed as a unit, related in location, size and type of establishments, and which provide on-site parking in definite relationship to the types and sizes of establishments. Where freestanding buildings function as a part of a unified business center, they shall be deemed to be a part of the center regardless of whether they are held in common ownership.

(93) USE. Any purpose for which a building or other structure or a tract of land is designed, arranged, intended, maintained, occupied or employed, and any activity, occupation, business, or operation carried on in a building or other structure or on a tract of land.

(94) USE, PERMITTED. A use which may be lawfully established in a particular district as designated in the regulations governing a zoning district.

(95) USE, PRINCIPAL. A main or dominant use of land, a building or other structure as distinguished from a subordinate or accessory use.

(96) WELL FIELD. A premise used primarily for the purpose of supplying a location for construction of a well to supply a municipal water system.

[Cr. 13-006, Eff. 4-4-13]

(96c) WELL RECHARGE AREA. The land area that contributes water to a well by infiltration or water into the subsurface and movement towards the well, regardless of the municipal or zoning jurisdiction of such land area.

[Cr. 13-006, Eff. 4-4-13]

(97) VARIANCE. A departure from any provision of the zoning requirements for a specific parcel, granted upon the demonstration of unreasonable hardship by the Board of Zoning Appeals or, as permitted by this code, by the Village Board.

(98) VILLAGE. The Village of DeForest.

(99) YARD. The open space between a lot line and a building line in which no structure may be located, except as provided in sec. 15.04.

(100) YARD, FRONT. The yard between the side lot lines extending from the front lot line to the nearest part of the nearest principal building. For corner lots and other double frontage lots, the yard abutting the street on which the lot is addressed shall be the front yard, except where otherwise approved by the Zoning Administrator based on circumstances that are unique to the site.

[Am. 13-021, Eff. 10-10-13]

(101) YARD, REAR. The yard between the side lot lines extending from the rear lot line to the nearest part of the nearest principal building. In the circumstance of properties with street frontages on more than two sides, the yard that is opposite that of the street address shall be classified as the rear yard.

[Am. 13-021, Eff. 10-10-13]

(102) YARD, INTERIOR SIDE. A yard between the front and rear lot lines extending from the interior side lot line to the nearest part of the nearest principal building.

[Am. 13-021, Eff. 10-10-13]

(102g) YARD, STREET SIDE: For each corner lot, the yard between the front and rear lot lines, extending from the street side lot line to the nearest part of the nearest principal building.
[Cr. 13-021, Eff. 10-10-13]

(103) ZERO LOT LINE. A unit placed in such a way on a lot that one exterior wall is on a property line.

(103m) ZERO LOT LINE CONSTRUCTION. A development approach in which a building is sited on one or more lot lines with no side yard area, except beyond the outer ends of the building.

[Cr. 06-06; Eff. 6-9-06]

15.03 ADMINISTRATION AND ENFORCEMENT.

(1) ZONING ADMINISTRATOR.

(a) Appointment. The Village Planning and Zoning Administrator shall carry out the functions of the Zoning Administrator directly or by delegation to qualified members of his or her staff or consultants.

(b) Duties. The Zoning Administrator is hereby designated as the administrative and enforcement officer for the provisions of this chapter. The duties of the Zoning Administrator shall be as follows:

1. Issue and, when applicable, renew all permits or certificates required by the several provisions of this chapter.
2. Make and maintain records of all matters pertaining to zoning within the areas subject to this chapter including, but not limited to, permit and certificate issuance, applications for zoning amendments, variances, conditional uses, and other zoning approvals, inspections, zoning decisions of other governmental bodies affecting the Village, signs, and all correspondence, protests or objections pertaining to Village zoning matters.
3. Conduct inspections of buildings, structures, and use of land to determine compliance with the terms of this chapter.
4. Receive, file, and forward to the Board of Zoning Appeals all applications for appeals, variances, and other matters on which the Board of Zoning Appeals is required to act under this chapter.
5. Render, when called upon to do so, administrative interpretations regarding the zoning of specific properties subject to this chapter, and the effect such zoning has on the properties or their use. The Zoning Administrator shall charge a fee for responding to requests for analysis and interpretations of the zoning status of any property in an amount established by the Village Board from time to time by ordinance or resolution. The fee provided for in this section shall not be charged for:
 - a. Requests limited to the current zoning status, zoning permits issued and permissible uses if made by the current owner of the subject property;
 - b. Requests made by employees or consultants on behalf of the Village or another governmental agency;
 - c. Oral testimony of any Village officer or employee pursuant to a subpoena or as otherwise authorized by the Village Administrator;
 - d. Copies of existing records subject to the Wisconsin Public Records law.
[Am. 17-01, Eff. 1-4-17]
6. Advise all interested Village and other governmental agencies of pending zoning matters, and provide required notices to property owners.

7. Serve as the Village staff planning and zoning liaison with the Village Board, Board of Zoning Appeals, Joint Committee, and Planning and Zoning Commission, and keep those boards, committees and commissions abreast of all zoning matters and of recent developments in the fields of community planning and zoning.
8. Issue temporary use permits, zoning permits, certain site plan approvals, and other permits and approvals when authorized by this chapter.
9. Issue orders and take appropriate action to enforce the provisions of this chapter as allowed by law.
[Am. 13-021, Eff. 10-10-13]

(2) VILLAGE BOARD. The Village Board has exclusive authority under this chapter to:

- (a) Approve, reject, or approve with conditions requests to rezone land within the jurisdiction of this chapter;
- (b) Enact amendments to the text of this chapter.
- (c) Hear and decide appeals from the Planning and Zoning Commission and Joint Extraterritorial Zoning Committee on their conditional use permit decisions.
[Am. 13-021, Eff. 10-10-13]

(3) PLANNING AND ZONING COMMISSION.

- (a) Jurisdiction. Except as provided in sec. 1.03(2)(b) and sub. (3a), the Village Planning and Zoning Commission shall, in addition to all other powers provided by law:
 1. Review and grant final approval or rejection of certain applications and appeals for site plan approval for projects within the Village, as required by §15.05, except where the Village Board waives or modifies such review under §15.19(6).
 2. Review and render decisions on all applications for conditional use permits within the Village.
 3. Review and decide applications for approval of final development plans for all Planned Unit Developments in the Village.
 4. Hold all public hearings as required under this chapter for development approval requests, unless a hearing before another body is expressly required by statute or by other provisions of this chapter.

(b) Required Vote. All actions by the Commission shall require a majority vote of the members present provided that a quorum of at least four (4) members are present.
[Am. 13-021, Eff. 10-10-13]

(3a) JOINT EXTRATERRITORIAL ZONING COMMITTEES.

(a) Jurisdiction. The DeForest-Vienna Joint Extraterritorial Zoning Committee shall have all of the powers of the Planning and Zoning Commission with respect to lands subject to sec. 15.035 within that portion of the ETZ Area that is also within the Town of Vienna. The DeForest-

Burke Joint Extraterritorial Zoning Committee shall have all of the powers of the Planning and Zoning Commission with respect to lands subject to sec. 15.035 within that portion of the ETZ Area that is also within the Town of Burke. If established by cooperative plan under §66.0307, Stats., the DeForest-Windsor Joint Extraterritorial Zoning Committee shall have all the powers of the Planning and Zoning Commission with respect to lands subject to sec. 15.035 within that portion of the ETZ Area that is also within the Town of Windsor. Each such body shall hereinafter be referred to as the Joint Committee for the lands under its respective geographic jurisdiction.

[Am. 12-09, Eff. 5-24-12]

(b) Membership. The membership of each Joint Committee shall consist of 3 citizen members of the Village Planning and Zoning Commission and 3 members appointed by the Board of Supervisors of the respective town. Town supervisors shall be eligible for appointment to the Joint Committee. The method of appointment of members shall be determined by the governing body of the respective appointing municipality. The Joint Committee shall elect its own chairperson and may establish its rules of procedure to the extent not in conflict with this chapter or State law.

(c) Voting. All final actions of the Joint Committee shall require a concurring vote of at least four (4) members. Members appointed by the town boards shall be entitled to vote only on those matters which affect lands within the boundaries of the town from which they were appointed.

[Am. 08-14; Eff. 5-16-08]

(4) BOARD OF ZONING APPEALS. (a) Jurisdiction. The Board of Zoning Appeals shall have the power to:

1. Hear and decide all appeals from any order, requirement, decision, or determination made by an administrative officer under Village zoning regulations.
2. Grant or deny variances consistent with the procedures and standards for variances as established in any Village zoning regulation.
3. Hear and decide all other matters upon which it is required to pass under any Village zoning regulation.

[Am. 21-09, Eff. 5-14-21]

(b) Meetings and Rules. All meetings of the Board of Zoning Appeals shall be held at the call of the chairman, and at such other times as the board may determine by rule. All meetings conducted by the board shall be open to the public. Any person may appear at a hearing in person or by a duly authorized agent. The chairman, or in his or her absence the acting chairman, may administer oaths and compel the attendance of witnesses. The board shall keep minutes of its proceedings, showing the vote of each member upon each question and shall keep accurate records of its hearings and other official actions. The board may adopt additional rules governing its proceedings not in conflict with this chapter. A copy of every rule, order, decision or determination of the board shall be filed with the Zoning Administrator.

(c) Required Vote. All final actions of the Board of Zoning Appeals shall require a concurring vote of at least four (4) members.

(5) APPEALS OF ADMINISTRATIVE DECISIONS.

(a) Time For Appeal. An appeal may be taken to the Board of Zoning Appeals by any persons, firm or corporation, or by any officer, department, board, commission or agency of the Village or, in the case of lands within the ETZ Area, of the town in which the affected land is located, aggrieved by any order, decision or interpretation of an administrative officer under this chapter. Such appeal shall be taken within thirty (30) days after the date of the order, decision or interpretation appealed from, by filing notice of such appeal on a form provided by the Administrator and payment of the fee as established by the Village Board.

[Am. 08-14; Eff. 5-16-08]

(b) Filing. A copy of the notice of appeal shall be served by the appellant on the officer whose decision is being appealed. Such officer shall promptly transmit to the board all papers constituting the record of the action under appeal.

(c) Stay of Proceedings. An appeal shall stay all proceedings in furtherance of the action appealed from, unless the Zoning Administrator certifies to the Board of Zoning Appeals that, by reason of facts set forth in the certification, a stay would cause imminent peril to life or property. In such case, the proceedings shall not be stayed unless a restraining order is issued by either the board or by a court of record for due cause shown.

(d) Appeal Hearing and Findings. A public hearing on the appeal shall be conducted by the Board of Zoning Appeals within thirty (30) days of filing. The board shall render a written decision on the appeal without unreasonable delay. In rendering its decision, the board may, in conformity with the provisions of this chapter, reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, and may make such order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken, and may issue or direct the issuance of a permit.

(e) Finality of Decisions. All decisions of the Board of Zoning Appeals under this subsection shall be considered final administrative determinations and shall be subject to judicial review in accordance with applicable Wisconsin Statutes.

(6) VARIANCES.

(a) Application for Variance and Hearing Notices. An application for a variance shall be filed in writing with the Zoning Administrator. The application shall contain such information as the Board of Zoning Appeals may from time to time by rule require. Upon receipt of a complete application and the associated fee, notice of the time and place of a public hearing shall be provided by Class 1 notice. The published notice may be supplemented by such additional notice as the Board of Zoning Appeals may require by rule. If the affected property is within an ETZ Area:

1. Within five (5) working days of receipt of a complete application and fee, the Zoning Administrator shall provide all application materials to the clerk of the affected Town with an invitation for Town review against the standards in sub. (c), below.
2. Unless the affected Town indicates in writing that the Town will not be submitting any formal comments, the Zoning Administrator shall schedule the public hearing

no sooner than forty-five (45) days from receipt of a complete application, to enable sufficient time for Town review and comment. The Zoning Administrator shall notify the clerk of the affected Town of the time and place of the public hearing as soon as practical.

3. Any recommendation from the affected Town or any other party received in advance of the public or during such hearing shall be incorporated into the official record as testimony on the variance application.

[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13]

(b) Hearing and Decision. A public hearing pertaining to the requested variance shall be held within 90 days of the filing of the application and required fee. A decision to grant or deny the requested variance shall be made in writing without unreasonable delay and shall set forth the findings and rationale of the board.

(c) Standards for Variances. The Board of Zoning Appeals shall grant a variance only when it has determined, and made written findings, that all of the following standards are met:

1. That compliance with the strict letter of the zoning ordinance would unreasonably prevent the owner from using the property for a permitted purpose or would render conformity with such restrictions unnecessarily burdensome. It is not sufficient that a variance applicant show that the zoning regulation(s) prevents or burdens his or her planned activity. Such applicant must show by competent evidence that the regulation unreasonably prevents or unnecessarily burdens the proposed activity.
2. That compliance with the strict letter of the zoning ordinance would create unnecessary hardship due to a unique property condition, meaning a special physical feature or limitation of the property that is not generally shared by nearby land or property within the same zoning district. If a variance applicant fails to prove the existence of a unique property condition and a connection between the condition and the hardship, even if the hardship is great, a variance may not be granted.
3. That the requested variance will not be contrary to the public interest or to the intent and purpose of this chapter as stated in §15.01(2).

[Am. 08-14; Eff. 5-16-08]

(d) Conditions. The Board of Zoning Appeals may condition the grant of any variance on compliance with any conditions or restrictions as it may deem reasonably necessary to comply with the standards established in this subsection, to minimize the effect of such variance upon other property or to better carry out the general intent of this chapter.

(e) Effect of Denial of a Variance. No application for a variance which has been denied shall be resubmitted for a period of one (1) year from the date of the order of denial, except on grounds of new evidence or proof of changed conditions found to be material by the Board of Zoning Appeals. For purposes of this paragraph, an application shall be considered a resubmission if it seeks a variance which is substantially similar to a previous request.

[Am. 13-021, Eff. 10-10-13]

(7) MAP AND TEXT AMENDMENTS.

(a) Authority. The regulations imposed and the districts created under this chapter may be amended from time to time by the Village Board.

(b) Initiation of Amendment. Amendments may be proposed by any Village Trustee, a member of the Planning and Zoning Commission, a member of the Board of Zoning Appeals, a member of the joint extraterritorial zoning committee or any person having an ownership or leasehold interest in any property within the Village.

(c) Application for Amendment. An application for an amendment shall be filed with the Zoning Administrator in such form and accompanied by such information as the Zoning Administrator shall specify and the fee established by the Village Board. This paragraph shall not apply to changes proposed by any Village board or commission or the joint extraterritorial zoning committee.

(d) Notice and Hearing. Except as provided in sec.15.035, the Planning and Zoning Commission shall conduct a public hearing on all applications for amendment. The Commission shall give notice of the time and place of such hearing by publishing a Class 2 Notice and providing any notice to adjacent municipalities required by §62.23(7), Stats. Said notice shall include a summary of the changes proposed.

(e) Recommendation and Report. The Planning and Zoning Commission, within 30 days after the close of the hearing held under par. (d), shall submit a written recommendation and report to the Village Board. In making its recommendation, the Commission shall utilize the following criteria:

1. Consistency with the Village's Comprehensive Plan as required by §66.1001, Stats., including but not limited to the Future Land Use map and associated policies and the Growth Phasing map and/or policy.
2. The extent to which the proposed amendment will alleviate a condition in the zoning code which is not conducive to proper community planning.
3. The degree to which all owners of property in the area or same zoning classification would be affected by the proposed amendment.
4. The suitability of any property subject to a proposed district change for the currently zoned uses and for proposed uses.
5. Any hardships created by the current text or district designation sought to be amended.
6. Whether adequate public school facilities and other public services exist or can reasonably be provided to serve the need likely to be created by any additional dwelling units authorized to be constructed as a result of such change.
7. Whether the proposed change is in accord with any existing or proposed plans for providing public water supply and sanitary sewers in the vicinity.

8. The recent rate at which land is being developed in the Village and the anticipated effects of the proposed amendment on development rates.

[Am. 13-021, Eff. 10-10-13]

(f) Effect of Denial of Amendment. No application for an amendment which has been denied wholly or in part by the Village Board shall be resubmitted for a period of one (1) year from the date of the denial, except on grounds of new evidence or proof of changed conditions found to be material by the Village Board.

(g) Development Phasing Agreements. Map amendments, associated with the subdivision of property, may be approved contingent upon the execution by the Village Board and the developer of a Development Phasing Agreement which addresses the number and type of dwelling units which may be constructed in a calendar year. The numbers will be calculated based on the quantity of existing developed platted lots and platted undeveloped lots.

(h) Rezoning of Land from the A-1 Ex or A-4 Districts. No land in the A-1 Ex or A-4 districts shall be rezoned to any district other than to the A-1 Ex or A-4 district, unless following a public hearing the Village Board finds all of the following:

1. The land is better suited for a use not allowed in the A-1 Ex or A-4 district.
2. The rezoning is consistent with the Dane County farmland preservation plan, Village comprehensive plan, and town comprehensive plan as applicable.
3. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use. [cr 15-44; Eff. 12-24-15]

(j) Reporting on Rezonings out of the A-1 Ex and A-4 districts. Per Section 91.48(2), Wisconsin Statutes, the Zoning Administrator shall, by March 1 of each year, provide to the Department of Agriculture, Trade and Consumer Protection and the Dane County Planning Director a report of the number of acres that the Village has rezoned out of the A-1 Ex and A-4 districts the previous year and a map that clearly shows the location of those areas. [cr 15-44; Eff. 12-24-15]

(8) VIOLATIONS AND PENALTIES.

(a) Equitable Relief. In case of any violation of this chapter, the Village Board, the Zoning Administrator, the Planning and Zoning Commission, the applicable joint extraterritorial zoning committee where the violation relates to lands within the ETZ Area, or any property owner who would be specially damaged by such violation, may cause appropriate action or proceeding to be instituted to enjoin the violation or cause an unlawful structure to be vacated or removed. [Am. 08-14; Eff. 5-16-08]

(b) Forfeitures. Any person found to have violated the provisions of this chapter shall forfeit not less than \$50.00 nor more than \$500 for each such violation. Each day of a continuing violation shall be considered a separate offense.

[Am. 13-021, Eff. 10-10-13]

(c) Remedies Not Exclusive. The remedies and penalties provided in this section are not exclusive. Nothing in this section shall be construed to prevent the Village or any person from commencing any action, or enforcing any remedy authorized by any other law.

(9) VILLAGE CONSULTANT SERVICES AND REIMBURSEMENT.

(a) The Village may retain the services of professional consultants (including planners, engineers, architects, attorneys, environmental specialists, recreation specialists, and other experts) to assist in the Village's review of any proposal coming before the Planning & Zoning Commission, Zoning Board of Appeals, Extraterritorial Zoning Committees, and/or Village Board under this chapter.

(b) The submittal of a development approval application or petition shall be construed as the applicant/petitioner's agreement to pay for such professional review services applicable to the proposal. The application or petition shall not be deemed complete until the applicant/petitioner provides the Village with an executed copy of a reimbursement agreement on a form provided by the Zoning Administrator.

(c) The Village will invoice the applicant/petitioner periodically for accrued professional review fees. The Village may delay or deny final approval of the proposal if any such invoice is outstanding more than thirty (30) days after issuance. Review fees which are applied to an applicant/petitioner, but which are not paid, may be collected as a special charge against the subject property.

[Am. 21-09, Eff. 5-14-21]

15.035 EXTRATERRITORIAL ZONING ADMINISTRATION.

[Am. 08-14; Eff. 5-16-08]

(1) APPLICABILITY. This section shall apply only to zoning matters affecting lands within the ETZ Area. The procedures in this section shall supplement the procedural provisions of sec. 15.03, but shall not be construed to overrule those provisions unless expressly stated herein or when necessary to avoid a direct conflict or to comply with applicable statutory requirements.

(2) TEXT AMENDMENTS. (a) Authority. The regulations imposed by this chapter as they affect lands within the ETZ Area may be amended from time to time by the Village Board upon the affirmative recommendation of each Joint Committee.

[Am. 12-09, Eff. 5-24-12]

(b) Notice and Hearing. The Joint Committees shall conduct a public hearing on all applications for amendment to any regulations under this chapter jointly with the hearing held by the Planning and Zoning Commission pursuant to sec. 15.03(7)(d), or shall each hold their own hearing. The Joint Committees shall vote separately from the Commission on any amendment. The chairman of each Joint Committee shall promptly report the decision of the Committee to the Village Board.

(c) Effect of Joint Committee Recommendation. Only amendments to the regulations of this chapter that have been affirmatively recommended by the Joint Committee with jurisdiction over the part of the ETZ Area within a particular Town shall be applicable within that Town. Any such amendment shall be codified in such a manner as to exclude its applicability to all or part of the ETZ Area, to the extent not recommended by the appropriate Joint Committees.

[Am. 12-09, Eff. 5-24-12]

(3) MAP AMENDMENTS.

(a) Authority. The zoning district designations of lands within the ETZ Area may be changed from time to time by the Village Board upon the affirmative recommendation of the appropriate Joint Committee as provided in this subsection.

[Am. 12-09, Eff. 5-24-12]

(b) Notice and Hearing. The appropriate Joint Committee shall conduct a public hearing on all applications for zoning district changes within that Joint Committee's jurisdiction. The committee shall give notice of the time and place of such hearing by publishing a Class 2 Notice and providing any notice to adjacent municipalities required by §62.23(7), Stats. In all cases, notice of the hearing shall be mailed to the Clerk of the town in which the lands are located. Said notice shall include a summary of the changes proposed.

(c) Town Review. The Joint Committee shall cooperate with the town in which the lands are located in providing any available information concerning the application upon request. The Joint Committee shall not vote on the application until:

1. The Board of Supervisors for the town in which the lands are located has voted to approve or disapprove the application as evidenced by written certification of the Town Clerk or published minutes of a meeting reflecting such vote;
2. At least sixty (60) days have elapsed since the close of the public hearing on the application without receipt by the Joint Committee of written certification by the Town Clerk of a decision by the Town Board for the town in which the lands are located.

(d) Amendments to Application. In the event an application is amended, the Joint Committee shall promptly notify the Clerk of the Town in which the lands are located of the amendment. If the amendment is made at the public hearing, the Joint Committee shall adjourn the hearing for not less than 10 days and shall promptly notify such Town Clerk of the amendment and of the adjourned hearing date. Amendments made after the close of the public hearing shall require a new public hearing and pars. (b) and (c) shall apply to the amended application.

(e) Recommendation and Report. The chairperson of the Joint Committee shall promptly report its recommendation to the Village Board. The recommendation shall include a statement of any recommendation made by the Town Board of the town in which the lands are located.

(f) Enactment by Village Board. The Village Board may enact an ordinance as approved by the Joint Committee by a majority vote except that an affirmative vote of 3/4 of the members present shall be required if:

1. A protest petition is filed in accordance with §62.23(7a)(f), Stats. or
2. The Clerk of the Town in which the land is located has certified in writing to the Joint Committee or the Village Board that the Town Board has voted to oppose the ordinance.

(g) Rezoning of Land from the A-1 Ex or A-4 Districts. No land in the A-1 Ex or A-4 districts shall be rezoned to any district other than to the A-1 Ex or A-4 district, unless following a public hearing the Village Board finds all of the following:

1. The land is better suited for a use not allowed in the A-1 Ex or A-4 district.
2. The rezoning is consistent with the Dane County farmland preservation plan, Village comprehensive plan, and town comprehensive plan as applicable.
3. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use. [cr 15-44; Eff. 12-24-15]

(h) Reporting on Rezonings out of the A-1 Ex and A-4 districts. Per Section 91.48(2), Wisconsin Statutes, the Zoning Administrator shall, by March 1 of each year, provide to the Department of Agriculture, Trade and Consumer Protection and the Dane County Planning Director a report of the number of acres that the Village has rezoned out of the A-1 Ex and A-4 districts the previous year and a map that clearly shows the location of those areas. [cr 15-44; Eff. 12-24-15]

(4) CONDITIONAL USE PERMITS.

(a) General. Conditional use permit applications for land within the ETZ Area shall be subject to sec. 15.16, except the applicable Joint Committee shall function in all respects in lieu of the Planning and Zoning Commission and subject to the limitations in subs. 4(b) and (c) below.

(b) Town Review. When any application is forwarded to the Joint Committee as provided in sec. 15.16(3)(c), the Zoning Administrator shall mail a copy thereof to the Clerk of the town in which the lands are located. The provisions of subs. 15.16(4)(c), (d) and (e) shall apply to all conditional use applications.

(c) Appeals to Village Board. If the Clerk of the town in which the lands are located has certified to the Joint Committee or the Village Board that the Town Board has voted to recommend rejection of the application, the permit shall not be granted except by a 3/4 vote of the Joint Committee or Village Board on appeal.

[Am. 13-021, Eff. 10-10-13]

(5) SITE PLAN REVIEW. Required site plans for developments in the ETZ Area shall be submitted and reviewed as provided in sec. 15.05(2), except that the applicable Joint Committee shall function in lieu of the Planning and Zoning Commission.

[Am. 13-021, Eff. 10-10-13]

15.04 GENERAL PROVISIONS.

(1) PERMITS AND ZONING COMPLIANCE. No building permit required under Chapter 14, conditional use permit, other permit, or certificate of occupancy required under Chapters 5 and 14 shall be issued until compliance with the provisions of this chapter have been verified by the Zoning Administrator, either by zoning permit or otherwise. Violators will be subject to fines and/or stop work orders.

[Am. 13-021, Eff. 10-10-13]

(2) ANNEXED LAND. All land which may hereafter be annexed to the Village shall, unless otherwise provided in the annexation ordinance, be automatically classified in the A-1 Agricultural District pending a public hearing by the Planning and Zoning Commission and adoption of an ordinance amending the district designation by the Village Board.

(3) NUMBER OF BUILDINGS. Not more than one principal building shall be located on any lot in a single-family residence district except buildings used for permitted civic, cultural or institutional uses. Civic, cultural or institutional uses may have more than one principal building per lot, provided, however, the minimum distance between buildings shall be not less than 15 feet and the minimum green space percentage must be met. Each lot in all other zoning districts may also have more than one principal building, provided the minimum distance between principal buildings shall not be less than 15 feet and all bulk standards within this chapter that are applicable to the zoning district are met. This subsection shall not apply to agricultural accessory buildings located on lands in any agricultural zoning district.

[Am. 06-06; Eff. 6-9-06; Am. 20-13, Eff. 5-15-20]

(4) ACCESSORY STRUCTURES.

(a) Conformance with Requirements For Principal Buildings. Any accessory building which is physically attached to a principal building shall conform to all district regulations applicable to the principal building except minimum floor area requirements.

(b) Construction Restrictions. Except where expressly permitted by the applicable district regulations or approved as part of a site plan under §15.05, no accessory building shall be erected prior to the establishment or construction of the principal building to which it is accessory.

(c) Size of Accessory Structures. Except as provided in subs. (10) and (24)(c), the maximum height of non-agricultural accessory structures shall be:

1. The maximum height set forth in the applicable district regulations;
2. In the RE and RH districts – fifteen (15) feet if associated with a residential principal use; twenty-five (25) feet, or the height authorized by conditional use permit, if associated with a non-residential principal use;
3. In all other residential districts – twelve (12) feet if associated with a residential principal use; twenty-five (25) feet, or the height authorized by conditional use permit, if associated with a non-residential principal use;
4. In all other districts where the maximum accessory building height is not established as part of the district regulations, thirty-five (35) feet.

Agricultural accessory buildings have no height limitation.

[Am. 06-06, Eff. 6-9-06; Am. 11-10; Eff. 4-15-11; Am. 13-021, Eff. 10-10-13; Am. 15-045, Eff. 12-24-15]

(d) Restrictions on Use as a Dwelling. Except for residential uses authorized by a conditional use permit, no accessory building shall be used for dwelling purposes.

(e) Temporary Accessory Structures. Accessory structures designed for the purpose of temporary storage may not be located on the property for more than 120 days in a calendar year and shall meet all accessory structure dimensional standards.

(f) Number of Accessory Buildings. Within any residentially zoned lot, there shall not be more than two (2) detached accessory buildings at any one time, except that additional buildings may be authorized by conditional use permit for permitted non-residential uses.

(g) Restrictions on Placement of Accessory Structures in Easements. No accessory building or structure of any kind shall be placed or maintained in an easement designated for public or private utility, public sewer, public water, stormwater, drainage, public access or other purpose where obstructions such as accessory buildings or structures would interfere with the purpose of the easement in the determination of the Public Works Director, or if in the ETZ Area the affected town board. This paragraph shall apply in addition to all accessory building setback standards in Tables 15.10B, 15.11B, 15.12B, 15.105B, or 15.115B.

[Am. 07-05; Eff. 02-09-07; Am. 13-021, Eff. 10-10-13]

(h) Location of Detached Accessory Buildings. No detached accessory building shall be placed closer than five (5) feet from a principal building. Required yard setbacks for detached accessory buildings shall be as established in Tables 15.10B, 15.11B, 15.12B, 15.105B and 15.115B.

[Cr. 08-14; Eff. 5-16-08; Am. 13-021, Eff. 10-10-13]

(5) MOBILE HOMES. No mobile home shall be used for human occupancy unless located in an approved mobile home park and properly connected to public sewer and water utility systems. Travel trailers designed and used for recreational purposes may be occupied on a temporary basis other than as a primary residence in a permitted campground.

(6) HOME OCCUPATIONS. All home occupations shall be subject to the following restrictions:

(a) All such uses must be incidental and secondary to the use of the dwelling unit for residential purposes and shall not endanger the public health or safety,

(b) All such uses shall be carried on wholly within the principal building, and shall not change the residential character of the dwelling unit or adversely affect the character of the surrounding neighborhood.

(c) All such uses shall be conducted such that no evidence of the business use is perceivable from outside of the home.

(d) Outside storage of materials, equipment or goods related to the home occupation is prohibited.

(e) No internal or external structural alterations to the dwelling unit, whether permanent or temporary, to accommodate the home occupation may be undertaken.

(f) No home occupation may accommodate more than two (2) patrons or clients within the dwelling unit at one time nor more than five (5) patrons or clients during any twenty-four hour period.

(g) Prohibited Home Occupations. The following activities shall not be permitted in residential areas as, or as part of, home occupations:

1. Any repair of internal combustion engines or related equipment, including the painting or repair of automobiles, trucks, trailers, boats, motorbikes, motorcycles, or lawn equipment;
2. Animal hospitals, kennels, stables, or bird keeping facilities;
3. Restaurants;
4. Adult oriented establishments;
5. Funeral chapels or homes, crematoria and mausoleums;
6. Medical or dental clinics, except the offices of sole practitioners are allowed if other home occupation standards are met;
7. Manufacturing, producing or assembling of any products unless the home occupation operator sells such products at retail;
8. Public places of amusement, such as theaters or video arcades;
9. The manufacturing, repair, refurbishing or assembly of firearms, ammunition, explosive materials or toxic chemicals;
10. The storage, packaging, shipping or handling of explosive or toxic materials;
11. The sale, offering for sale or advertising for sale of explosive materials or toxic chemicals, except those contained in ammunition for firearms, where any such products sold or offered for sale are physically located on the residential premises at any time.
12. Warehousing, welding or machine shops.
13. Processing of domestically produced or raised animals.
[Am. 06-06; Eff. 6-9-06; Am. 07-27; Eff. 7-20-07]

(7) BUILDING BULK REGULATIONS.

(a) Corner Lots and Through Lots. Where lots have street frontage on more than one side, front yard requirements shall apply to each side adjacent to a street

(b) Minimum Lot Area. No building or other structure shall hereafter be erected, altered or enlarged on a lot which does not meet the minimum lot area and lot width prescribed by the applicable district regulations, except as may otherwise be allowed under Section 15.02(51). Lots created prior to adoption of this chapter are subject to Section 15.17(13). [Am. 13-021, Eff. 10-10-13]

(c) Lot Area Following Right-of-Way Widening. The minimum lot area requirements for any lot shall be reduced by the number of square feet acquired by federal, state or municipal agency, by condemnation or otherwise, for the purpose of widening or otherwise altering any street abutting the lot, except that the minimum lot area shall not be reduced by more than 25%.

(d) One Hour Firewall Required. The common wall of all duplexes, multi-family and townhouse units shall have a one hour firewall extending from the floor of the lowest living space to the roof of the unit.

(e) Backwater Valve Required. All new construction and renovated dwelling units shall have a backwater valve installed to prevent the reverse flow of stormwater or sewage into the drain system.

(f) New Lots Meeting Bulk Regulations. No lot shall be divided into two (2) or more lots, and no portion of any lot shall be sold or otherwise transferred, unless all lots resulting from such division, sale, or transfer, and all buildings on such lots, will conform with all bulk and dimensional standards applicable to the zoning district in which the lots are located, except where a substandard lot being created is legally restricted from building development.

[Cr. 10-04, Eff. 2-4-10]

(8) PERMITTED IMPROVEMENTS IN REQUIRED BUILDING SETBACK AREAS. Except as prohibited by sec. 15.04(4)(g), the following improvements shall be permitted in the yard setback areas required by the district regulations:

(a) Front and Street Side Yard Setbacks:

1. Landscape features in accordance with sec. 15.06(2)(m);
2. Flag poles;
3. Freestanding yard signs;
4. Basketball backboard and hoop in any residential district;
5. Signs permitted under sec. 15.08;
6. Driveways and parking spaces, with front yard parking allowed only by conditional use in business districts (see Table 15.11B); and
7. Utility service connections and equipment.
8. Ramps specifically designed and required for access by disabled persons.
9. Front porches, which may extend up to 10 feet into the front yard setback.

(b) Interior Side Setbacks:

[Am. 08-14; Eff. 5-16-08]

1. All improvements permitted within front yard setbacks by pars. (a)1-8;
2. Open terraces, decks, patios and similar structures, no portion of which is covered by a roof or other overhead structure, provided that any such improvements may

extend no closer to the lot line than allowed for accessory buildings in the applicable zoning district;

3. Play equipment as defined in 15.04(21), swimming pools and their accessory decks to the extent permitted by sec. 15.04(14), and clotheslines and their supporting structures in any residential district;
4. Fences and walls not exceeding ten (10) feet in height above natural grade level in industrial zoning districts and six (6) feet in height above natural grade level in all other districts;
[Am. 09-05, Eff. 319-09]
5. Roof overhangs and gutters not extending more than 30" from the building wall; and
6. Other detached accessory buildings and structures allowed by this chapter, provided that accessory building setbacks in the applicable zoning district are met.

(c) Rear Setbacks:

1. All improvements permitted within front or side yard setbacks by pars. (a)1-8 or (b); and
2. All open decks, detached garages, and accessory structures and uses allowed by this chapter, provided that accessory building setbacks in the applicable zoning district are met. Fully or partially enclosed decks, including any deck on which there is located a roofed structure, must meet the principal building setbacks in the applicable zoning district.
[Am. 07-05; Eff. 02-09-07]

(9) FRONT FOOTAGE AND ACCESS TO LOTS. All lots shall have a minimum street frontage of no less than forty-five feet (45').

[Am. 08-14; Eff. 5-16-08]

(10) EXCEPTIONS TO HEIGHT LIMITATIONS.

(a) Structure height limitations set forth in the district regulations shall not apply to: agricultural structures (exclusive of dwellings), chimneys, cooling towers, elevator bulkheads, fire-towers, ornamental towers and spires, church steeples, public utility poles, towers and wires, small wind energy systems, communications antenna and communications towers, water tanks and standpipes, or necessary mechanical appurtenances. The permitted height of communications antennae and communications towers, including amateur radio antennae and towers, shall be determined under sub. (16).

[Am. 10-04, Eff. 2-4-10]

(b) [Repealed 10-04, Eff. 2-4-10]

(11) OFF-STREET PARKING AND LOADING. No building or other structure shall hereafter be erected, altered, or enlarged, nor shall any use of land be established or enlarged unless the minimum off-street parking and loading spaces set out in sec. 15.07 are provided or as provided for under sec. 15.11(2)(b)(4).

(12) PERFORMANCE STANDARDS. The performance standards set forth in this subsection are applicable to all land uses and activities except where otherwise indicated, and are designed to protect the public health, safety, and welfare and to protect, maintain, and enhance the quality of the natural environment of the community. All uses shall be conducted in such a manner so as not to cause any significant nuisance, hazard, or commonly recognized offensive conditions or characteristics, including significant emission of dust, gas, smoke, noise, fumes, odors, particulate matter, chemical compounds, humidity, heat, cold, glare, or night illumination or the creation of external vibration or electrical disturbance. Prior to issuance of a zoning permit, building permit, or certificate of occupancy for any use, the Zoning Administrator or Building Inspector may require evidence that adequate controls, measures, or devices have been provided to ensure and protect the public interest, health, comfort, convenience, safety, and general welfare from such nuisance, hazard, or offensive condition.

(a) Noise. No land use activity shall be conducted in such a manner as to generate sound which, because of its volume, pitch, frequency, repetitiveness, duration or other characteristics or any combination of the foregoing, unreasonably interferes with the use and enjoyment of neighboring properties for uses lawfully permitted thereon.

(b) Vibration. No land use activity shall be conducted in such a manner as to cause earthborn vibrations on neighboring properties of sufficient intensity, frequency, duration, or other characteristics or any combination of the foregoing, as to unreasonably interfere with the use and enjoyment of such neighboring properties for uses lawfully permitted thereon, or to cause damage to real or personal property thereon.

(c) Odor. No land use shall cause any odor that is offensive to a person of reasonable sensibilities detectable at any lot line of any lot in a residential district for periods exceeding a total of 15 minutes of any day.

(d) Waste Materials. No use or activity shall be so conducted as to cause the harmful discharge of any waste materials per §§11.035(1)(c) and (6), 8.53(2)(e)-(f), 8.70, 9.07(5), 10.05(2), 11.03(7), and 11.035(6) and other applicable sections of the Municipal Code and state and federal law.

(e) Toxic, Hazardous, And Radioactive Materials. Any land use or other activity which involves the use of toxic, hazardous, or radioactive materials shall comply with all applicable standards set forth in State and Federal statutes and regulations regarding the use, storage, transportation, emission, and disposal of such materials. The operator of any such land use or activity shall obtain, maintain and comply with all necessary licenses and permits from the appropriate State and Federal agencies. As part of any permit review process under this chapter, the Village may require such operator to prepare and submit a process safety management, risk management, containment, and emergency response program for approval by the Fire Chief. In the event of any spill or other accident involving toxic, hazardous, or radioactive materials, the responsible party shall immediately notify the Fire Department and Madison HazMat team, and shall follow procedures specified in any approved process safety management, risk management, containment, and emergency response program.

(f) Fire and Explosive Hazards.

1. General. All flammable solid, liquid, and gaseous substances shall be stored and used in accordance with all applicable Federal, State and local statutes, regulations and ordinances, including but not limited to Chapter 5 of this Code.

2. **Solid Materials**. In all non-residential zoning districts, the storage or use of solid materials or products ranging from incombustible to moderate burning is permitted. In all non-residential zoning districts, the storage or use of solid materials or products ranging from free or active burning to intense burning is permitted, if:
 - a. Any building in which such materials or products are stored or used are is constructed with no less than a two-hour fire-resistance rating on all exterior walls and is protected with an automatic fire extinguishing system; and
 - b. Any area where such materials are stored or used outdoors is located no less than fifty (50) feet from the nearest lot line.
3. **Liquid and Gaseous Materials**. The storage or use of flammable liquids or gasses shall be permitted in conjunction with any non-residential use that does not share a building or site with a non-farm residential use. Above ground storage tanks shall be limited to 25,000 gallons. Underground storage tanks shall be limited to 100,000 gallons. When flammable gasses are stored or used, the quantity in cubic feet at standard temperature and pressure shall not exceed 30 times the limits of the associated storage tank. The storage of finished products in original sealed containers shall be exempt from the above requirements. Storage tanks for flammable liquids or gasses shall further:
 - a. Be screened from view pursuant to Sec. 15.05(8)(i).
 - b. Be approved by the Zoning Administrator and the Fire Inspector or their designees prior to installation or expansion.
 - c. Not be located between the principal building and any lot line abutting any residential zoning district or use, or sixty (60) feet from the lot line abutting such residential zoning district or use, whichever is greater.
 - d. If above ground, be set back from any lot line as indicated in the following chart.

Size of above ground tank	Minimum setback from all lot lines
Up to 5,000 gallons	20 feet
5,001 to 15,000 gallons	40 feet
15,001 to 25,000 gallons	60 feet

4. **Explosive Materials**. In addition to all other requirements of this section, any activity involving the storage or use of materials or products which decompose by detonation is prohibited in all districts, except where specifically licensed by the local governing body. Such materials include, but are not limited to: all primary explosives such as lead azide, lead styphnate, fulminates, and tetracene; all high explosives such as TNT, RDX, HMX, PETN, and picric acid; propellants and components thereof such as nitrocellulose, black powder, boron hydrides, hydrazine, and its derivatives; pyrotechnics and fireworks such as magnesium

powder, potassium chlorate, and potassium nitrate; blasting explosives such as dynamite and nitroglycerine; unstable organic compounds such as acetylides, tetrazoles, and perchloric acid; per chlorates; chlorates; hydrogen peroxide in concentrations greater than 35 percent; and nuclear fuels, fissionable materials, and products and reactor elements such as Uranium 235 and Plutonium 239.

(g) Lighting & Glare. No land use activity shall be conducted so that direct and indirect illumination from a source of light shall cause illumination in excess of 0.5 foot-candles, as measured horizontally at any point on a lot line abutting or within a residential district or in excess of 2.0 foot-candles in non-residential districts, except that when street lighting produces illumination in excess of one foot-candle at a particular point in a residential district, light sources from property in a non-residential district at the same point may add up to 50% percent of the street lighting. Flickering or flashing lights shall be controlled or shielded so as not to cross lot lines.

(h) Heat. Every land use and activity shall be operated such that it does not emit heat beyond the boundary of the lot on which it is located below the highest point of any building located on any other lot.

(i) Electromagnetic Interference. No land use shall be permitted which creates any electromagnetic interference that adversely affects the operation of any equipment other than that belonging to the creator of such interference, or that does not conform with all Federal Communications Commission regulations.

(j) Storage of Vehicles. Storage of more than ten (10) vehicles as an accessory use, other than inventory of permitted vehicular sales lots, employee, or guest parking, or service vehicle or trailer parking, within designated parking stalls or loading areas, shall be subject to the following standards and conditions, unless expressly determined by the site plan or conditional use approval authority to be unnecessary to carry out the intent and purpose of this chapter:

1. Such use shall be prohibited unless the conditional use or site plan application adequately demonstrates that the inside storage of the permitted vehicles is impractical.
2. The location(s) of the outdoor storage area shall be selected to minimize its visual impact beyond the property line.
3. No outdoor storage area shall be used for the storage of vehicles prior to completion of construction of a principal building on the lot.
4. The outdoor storage area shall be completely screened by an opaque wall or fence, a portion of a building, or some combination of the foregoing. No fence or wall shall exceed ten (10) feet in height above natural grade level.
5. The land between any fence or wall forming the outer boundary of the outdoor storage area and the nearest property line shall be landscaped in order to buffer the appearance of the fence or wall as required by §§15.05(8)(i) and 15.06(9)(d).
6. The outdoor storage area shall be designed and maintained in such a manner that one or more drive aisles are available to access each motor vehicle that is

temporarily stored within the area at all times and to maintain access at all times to all portions of the lot for emergency vehicles.

7. All space within the outdoor storage area to be used for temporary vehicle storage shall be paved with a hard, all-weather surface or graveled.
8. In no case shall more than three (3) vehicles regulated by this paragraph be stored outside of the enclosed outdoor storage area at any one time.
9. A spill prevention and control plan approved by the Zoning Administrator shall be maintained in effect and complied throughout the duration of the vehicle storage use. All stored vehicles shall either be inspected to ensure that they are not leaking fuel, oil, or other toxic or hazardous liquids, or drained of all such liquids.
[Am. 13-021, Eff. 10-10-13]

(13) FENCES AND HEDGES.

(a) Fences Defined. For the purpose of this section, "fence" means an enclosed barrier consisting of vegetation, wood, stone, metal or other material intended to prevent ingress or egress.

(b) Height and Materials Regulated.

1. Residential Districts. In any residence district, no fence, wall, hedge or shrubbery shall be erected, constructed, maintained, or grown to a height exceeding three (3) feet above the street grade nearest thereto, within twenty-five (25) feet of the intersection of any street lines or of street lines projected. Fences may be erected, constructed, maintained, or grown to a height not to exceed six (6) feet along side and rear lot lines, but shall not extend into the front setback area, provided, however, that landscape features not exceeding four (4) feet in height and which do not impede ingress or egress to the property may be erected within the front set back area.
2. Security Fences. Security fences are permitted along the property lines in all non-residential districts, but shall not exceed ten (10) feet in height and shall be of open type similar to woven wire or wrought iron fencing. The Planning and Zoning Commission may approve security fencing in residential districts for permitted civic, cultural and institutional uses if the Commission finds that such fencing is necessary for security or safety reasons.
3. All manufactured or constructed fences shall be oriented with posts or other visible supports toward the inside of the subject property and the finished side facing neighboring properties or public rights-of-way.

(c) Prohibited Fences. Except in the agricultural districts, no fence may be constructed which conducts electricity or is designed to transmit an electrical shock. No fence containing barbed wire shall be constructed other than within the agricultural districts; provided, however, that barbed wire may be used in the industrial districts if the devices securing the barbed wire to the fence are ten (10) feet above the ground or higher and project toward the fenced property and away from any public area.

(d) Vision Clearance.

1. On corner lots in all zoning districts, no fence, wall, hedge, planting or structure shall be erected, placed, planted or allowed to grow in such a manner as to obstruct vision between a height of two and one-half (2 1/2) feet and ten (10) feet above the centerline grades within a vision corner. As used in this paragraph, "vision corner" means the area within a triangle formed by connecting the point of intersection of the rights-of-way of any two streets or of any street with any railroad right-of-way with the following:
 - a. If either of the intersecting rights-of-way is a collector or arterial street, points located fifty feet (50') from such point of intersection along each of the intersecting right-of-way lines; or
 - b. If neither of the intersecting rights-of-way is of a collector or arterial street, points located twenty-five feet (25') from such point of intersection, along each of the intersecting rights-of-way.

[Am 04-13; Eff. 5-20-04; Am 14-007; Eff. 3-27-14]

(e) Fence Maintenance. All fences shall be maintained and kept safe and in a state of good repair, and the finished side or decorative side of a fence shall face adjoining property.

(f) Temporary Fences. Fences erected for the protection of plantings, or to warn or construction hazards, or for similar purposes, shall be clearly visible or marked with colored streamers or other such warning devices at four (4)-foot intervals. A building permit shall not be necessary for temporary fences as described herein, but said fences shall not be erected for more than forty-five (45) days.

(14) SWIMMING POOLS.

(a) Definition. A private or residential swimming pool is an outdoor accessory structure containing or designed to contain water in a receptacle or other container located above or below the surface of ground elevation, used or intended to be used solely by the owner, operator or lessee thereof and his or her invitees for swimming, diving or similar water activities, and includes all structural facilities, appliances and appurtenances, equipment and other items used and intended to be used for the operation and maintenance of the swimming pool.

(b) Permit Required. A permit is required for all in-ground and above-ground pools which require a permanent or hardwired connection to any public utilities. Before work is commenced on the construction or erection of a private or residential swimming pool, a building permit shall be obtained from the Building Inspector. Plans and specifications and pertinent explanatory data shall be submitted to the Building Inspector at the time of application.

(c) Construction Requirements. The Building Inspector shall not issue a permit for construction as provided for in sub. (b), unless the following construction requirements are observed:

1. All materials and methods of construction in the construction, alteration, addition, remodeling or other improvements and pool installation shall be in accord with all state regulations and codes and with any and all local ordinances.

2. All plumbing work shall be in accordance with all applicable ordinances and state codes. Every private or residential swimming pool shall be provided with a suitable draining method, and in no case shall chemically treated waters from any pool be drained into the storm sewer system, nor onto lands or other properties adjacent to that on which the pool is located.
3. All electrical installations, including but not limited to lighting and heating, which are provided for, installed, and used in conjunction with a private swimming pool, shall be in conformity with the state laws and local ordinances regulating electrical installations.

(d) Exempt Pools. Storable swimming or wading pools that are so constructed that they may be readily disassembled for storage and reassembled to their original integrity, are exempt from the provisions of par (e). Spas and hot tubs are also exempt.

(e) Pool Safety Measures. Except as provided in par. (d), all swimming pools that are not enclosed with a permanent building, shall have at least one of the following:

1. A fence or wall of sufficient strength to prevent access to the pool. Such fence or wall shall not be less than four (4) feet in height, except the Building Inspector may require a minimum of six (6) feet in height upon a determination that the selected fence design will facilitate climbing. Such fence shall be so constructed as not to have voids, holes, or openings larger than four (4) inches in one dimension. Gates or doors shall be of similar height to the remainder of the fence and shall be kept locked while the pool is not in actual use.
2. A raised deck around the entire pool perimeter with an attached enclosed railing a minimum of thirty-six (36) inches high on the top and secured access to such deck.
3. A pool cover or other protective device of such a design and material of sufficient strength to prevent access to the pool. Such cover or protective device shall be securely fastened in place at all times when the swimming pool is not in actual use for swimming or bathing purposes. [Am. 13-021, Eff. 10-10-13]

(f) Setbacks and Locational Requirements.

1. All swimming pools, exempt and non-exempt, shall be erected or constructed only on the rear or side yards of lots occupied by a principal building.
2. No swimming pool shall be located, constructed or maintained closer to any side or rear lot line than is permitted in the zoning code for an accessory structure.
[Am. 04-13; Eff. 5-20-04]

(15) SIMILAR COMPATIBLE USES.

(a) Permitted Uses. Uses not specified in this chapter as either permitted or conditional in any district but which are found by the Planning and Zoning Commission, or relevant Joint Committee as appropriate, to be sufficiently similar to specified permitted uses within the district and which are clearly compatible with the other uses permitted in the district shall be deemed permitted. The Commission or relevant Joint Committee shall make specific findings reflected in their minutes indicating the permitted use found to be similar and compatible.

(b) Conditional Uses. Uses not specified in this chapter as either permitted or conditional in any district which are not found sufficiently similar and compatible to a permitted use as provided in par. (a), but which are similar to and compatible with a specified conditional uses permitted in the district may be permitted as conditional uses by the Planning and Zoning Commission or Joint Committee in accordance with sec. 15.16. The Commission or Joint Committee shall make specific findings reflected in their minutes demonstrating that the conditional use is found to be similar and compatible.

[Am. 08-14; Eff. 5-16-08; Am. 13-021, Eff. 10-10-13]

(c) [Repealed 13-021, Eff. 10-10-13]

(16) REGULATION OF SATELLITE EARTH STATIONS AND COMMUNICATIONS ANTENNA AND COMMUNICATIONS TOWERS.

(a) Permit Required. No person shall erect, install, construct, or place any type of satellite earth station, communications tower or communications antenna on any lot or structure until a building permit has been obtained from the Building Inspector, except for residential television receiving antennae and for satellite dishes not exceeding 24" in diameter. The Building Inspector shall not issue a building permit until a conditional use permit is approved under the provisions of this chapter, except that where the installation of additional antennae and associated equipment will not cause a substantial modification to an existing communications tower or other existing support structure, the Village will not require approval of a new conditional use permit or conditional use permit amendment for such installation. The terms "substantial modification" and "support structure" shall be as defined in §66.0404(2)(b), Stats. Also, in such instances, the Zoning Administrator shall determine whether site plan review under §15.05 will be required, based on the impact to the public and adjacent land owners of such additional installation.

(b) Definitions:

1. *Amateur Radio Antenna* means any combination of materials or equipment located outside of a principal structure on a premises used exclusively for the purpose of sending and/or receiving electromagnetic waves for amateur radio service, including any towers, support structures, guy wires, foundations or similar components of a support structure.
2. *Amateur Radio Service* means the transmission and reception of electromagnetic signals for non-commercial purposes, by an amateur radio operator licensed by the Federal Communications Commission.
3. *Satellite Earth Station* is an apparatus capable of receiving communications from a transmitter or a transmitter relay located in planetary orbit. Satellite earth stations include those structures commonly referred to as disks, satellite communications systems or home earth satellite stations.
4. *Commercial Communications Antenna* is equipment used for transmitting or receiving radio frequency signals which is attached to a tower, building or other structure, usually consisting of a series of directional panels, microwave or satellite dishes, but does not include an amateur radio antenna governed by par. (e).
5. *Commercial Communications Tower* is any pole, spire, structure or combination thereof to which antenna could be attached, or which is designed for an antenna

to be attached and a supporting lines, cables, wire and braces, other than a structure exclusively used to support an amateur radio antenna.

6. *Accessory Equipment Structure* is a building or cabinet-like structure located adjacent to or in the immediate vicinity of a commercial communication tower and antenna to house equipment customarily incidental to the receiving or transmitting of wireless signals, broadcasts, cellular telephone or voice messaging paging services.

(c) Application. Application for a conditional use permit to install a satellite earth station, commercial communications tower, or commercial communications antenna (where applicable) shall be made in writing to the Building Inspector and be accompanied by a current fee and a set of plans and specifications, showing the location of the proposed structure with respect to existing structures and property lines, and meeting other submittal requirements in §66.0404(2)(b), Stats.

(d) Installation Restrictions.

1. Number of Units. Only one ground-mounted satellite earth station and one ground-mounted television or amateur radio antenna support tower shall be permitted per dwelling unit on any residential lot.
2. Co-location of Commercial Communications Antennas. To minimize the number of tower sites, existing towers shall be utilized whenever feasible for the co-location of commercial communications antenna. A conditional use permit for a new communications tower may be denied if applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under §66.0404(2)(b)6, Stats. The Village shall, unless it is shown to be unreasonable, condition the granting of a conditional use permit for each new commercial communications tower upon the applicant placing or constructing the communications tower to accommodate the collocation of two additional antenna arrays similar in size and function to that placed on the tower by the applicant. The holder of the conditional use permit shall make the collocation sites required hereunder available for the placement of technologically compatible antenna arrays and equipment upon contractual provisions that are standard in the industry and at prevailing market rates allowing the permit holder to recoup the cost of providing the collocation sites and a fair return on investment.
3. Location and Setbacks. Ground-mounted satellite earth stations, communications towers, and communications antennas shall meet all location and setback requirements for principal structures for the specific zoning district in which they are located.
4. Mounting. Wall- or roof-mounted satellite earth stations or communications towers and communications antenna shall be attached only to a structure which is constructed to carry the imposed loading. All satellite earth stations, communications towers and communications antenna shall be permanently mounted in accordance with manufacturer's instructions and to meet a minimum wind load design velocity of eighty (80) m.p.h.
5. Height. In all districts, ground-mounted satellite earth stations or communications antenna and communications towers may not exceed twenty (20) feet in height or

the minimum height necessary to effectively receive and transmit communications, whichever is greater. Wall- or roof-mounted units, in residential districts, shall not extend more than eight (8) feet, or the minimum height necessary to effectively receive and transmit communications, whichever is greater, above the roof line as measured from the lowest point of the existing roof. Wall- or roof-mounted units in all other districts shall not extend more than twenty (20) feet above the median roof line or the minimum height necessary to adequately receive communications.

6. Electrical Installations. All electrical work performed in connection with the installation of satellite earth stations or communications tower or communications antenna, including grounding of the system, shall be in accordance with the National Electrical Safety Code, Wisconsin State Electrical Code, and the instructions of the manufacturer. In case of conflict the stricter requirement shall govern. All cable used to conduct current or signals from the satellite earth station or communications tower or communications antenna to the receiver shall be installed underground and the location of all underground lines shall be shown on the permit application. All such units shall be adequately grounded against direct lighting strikes.
7. Advertising. No form of advertising or identification, sign, or mural is allowed on any communications tower or communications antenna other than a manufacturer's identification plate and any warning labels or similar communications affixed to the unit by the manufacturer.
8. Color. The color of any satellite dish or television or radio antenna tower and their support structures shall be neutral.
10. Removal. The applicant for a conditional use permit for any commercial communications tower shall provide a written agreement stating that if the tower, antennas, or transmitters are unused for a period exceeding 12 months, the applicant shall remove the tower, antennas, or transmitters upon written request from the Zoning Administrator at no cost to the Village within 60 days of such request. If such listed items are not removed within 60 days of such notification, the Village may remove the items at the expense of the holder of the conditional use permit. Within 30 days of the date on which the tower use ceases, the permit holder shall provide the commission written notice of the cessation of use. A performance bond of \$20,000.00 shall be required to ensure compliance with all applicable requirements for removal of the commercial communications tower and equipment.

(e) Special Regulations for Amateur Radio Antennae.

1. The purpose of this paragraph is to recognize and accommodate the federal and state declared interest in promoting and preserving amateur radio operations while protecting the legitimate interests of the general public including:
 - a. Minimizing the unnecessary detriment to the aesthetic quality of the Village and its extraterritorial zoning area;
 - b. Preserving the character of various neighborhoods within the Village and the values of properties within the Village and its extraterritorial zoning area;

- c. Providing for adequate review of designs and installation of facilities which pose substantial risk of collapse if improperly designed or installed;
 - d. Protecting the owner and operator of an amateur radio antenna and neighboring property owners and the public in general from unreasonable risks of injury or property damage from the collapse of a communications tower or communications antenna or from electrical charges generated or conducted by such facilities;
 - e. Assuring that all amateur radio operators have a reasonable opportunity to construct and maintain the equipment and facilities necessary to effectively participate in amateur radio operations.
2. In acting on conditional use permit applications for amateur radio antennae, the Planning and Zoning Commission or Joint Committee shall make reasonable efforts to formulate reasonable conditions and the minimal practical restrictions that will allow for the approval of such facilities and shall recommend denial only if it finds that the requested use, if installed and operated in accordance with all reasonable conditions and restrictions, will cause a significant danger to the public safety or welfare. In doing so the Commission or Committee may waive, in whole or in part, any of the provisions of par. (d) if it determines that the purposes of such regulations can be met through other means that can be enforced through appropriate conditions.
3. It shall be a condition to all permits issued under this paragraph that the amateur radio antennae and the operation of the amateur radio service using such antennae shall at all times be maintained in compliance with the applicable regulations and permit conditions issued by the Federal Communications Commission.
[Am. 10-04, Eff. 2-4-10; Am. 13-021, Eff. 10-10-13]

(17) DRIVEWAYS. All driveways installed, altered, changed, replaced, or extended shall meet the applicable requirements of §15.07.

[Repd & Recr. 11-10; Eff. 4-15-11]

(18) STORAGE AND PARKING OF RECREATIONAL VEHICLES. (a) Definitions. For purposes of this section, the following definitions shall apply:

1. Recreational Vehicle. Recreational vehicle means any of the following described equipment:
 - a. a "Travel Trailer," defined as a non-motorized, portable, rigid structure built on a chassis and on wheels that is designated to be used as a temporary dwelling for travel, recreation, vacation or other temporary uses and towed by a motor vehicle. The term includes so-called fifth-wheel units.
 - b. a "Pick-up Coach" defined as a structure designed to be mounted on or within the bed of a pick-up truck for use as a temporary dwelling for travel, recreation, vacation or other temporary uses.

- c. a "Motor Home" defined as a portable, temporary dwelling to be used for travel, recreation, vacation, or other temporary uses, constructed as an integral part of, or permanently attached to, a self-propelled vehicle.
 - d. a "Camping Trailer" defined as a folding structure mounted on wheels and designed to be transported and stored in a collapsed position and opened to create usable dwelling space at a destination where it is used for travel, recreation, vacation or other temporary uses.
 - e. a "Converted Van" or "Converted Bus" defined as a recreational structure created by altering or changing an existing auto van or bus to make it suitable for use as temporary sleeping quarters for travel, recreation or other temporary uses.
 - f. a "Utility Trailer" defined as a non-motorized vehicle designed to be towed by a motor vehicle and used to transport one or more boats, snowmobiles, all-terrain vehicle, personal water craft, other off-road equipment or goods or materials.
 - g. a "Snowmobile," defined as a small vehicle designed for travelling on snow,
[Cr. 11-10; Eff. 4-15-11]
 - h. an "All-terrain vehicle," defined as a small, open motorized vehicle with three or four wheels, or track system, designed for off-road use that is not a snowmobile.
[Cr. 11-10; Eff. 4-15-11]
2. Boat. Boat means every description of watercraft used or capable of being used as a means of transportation on water.
 3. Yard, Front, has the meaning defined in §15.02(100); provided, however, that notwithstanding §15.04(7)(a), for purposes of this subsection, a corner lot shall be deemed to have a front yard only along the side of the lot abutting the street on which the lot has its street address, and the sides of the lot along the lot line approximately perpendicular to such street and between the front and rear setback lines shall be considered side yards.

(b) Permitted Parking or Storage of Recreational Vehicles and Boats. In all residential and commercial districts the parking or storage of a recreational vehicle or boat is permitted only in the following manner:

1. Parking is permitted inside any enclosed structure which conforms to the zoning requirements of the particular zoning district where located.
2. Parking is permitted outside in the side yard or rear yard, provided it is not nearer than five (5) feet to any lot line, on a hard-surfaced or gravel area, provided inside parking on the premises is not possible.
3. Parking is permitted outside in the front yard setback when inside parking is not possible, only in accordance with the following additional restrictions:

- a. The overall length of the recreational vehicle or boat, including any part of an attached trailer or any equipment, shall not exceed twenty-two (22) feet and the overall height shall not exceed seven (7) feet.
 - b. The recreational vehicle or boat shall not be located nearer than five (5) feet from any lot line.
 - c. All parts of the recreational vehicle or boat shall be located on a hard-surfaced or gravel area.
4. Except as provided in subpars. 7 and 8, the body of the recreational vehicle or boat must be at least twenty (20) feet from the nearest point of the paved surface of any street.
 5. Except as provided in subpars. 7 and 8, no part of the recreational vehicle or boat may extend over any portion of a public sidewalk or other public right-of-way.
 6. Parking is permitted only for storage purposes. Recreational vehicles or boats shall not be:
 - a. Used for dwelling purposes, except that incidental overnight sleeping for periods not exceeding two (2) consecutive nights and not more than fourteen (14) nights in any one calendar year is permitted when the recreational vehicle or boat is stored on the private property of its owner outside of the public right-of-way. Cooking is not permitted at any time.
 - b. Permanently connected to sewer lines, water lines, or electric service. The recreational vehicle or boat may be connected to electric service temporarily for charging batteries, maintenance and similar purposes.
 - c. Used for storage of goods, materials or equipment other than those items considered to be part of the unit or integral to the use of the recreational vehicle or boat as intended by the manufacturer.
 7. Notwithstanding subpars. 2-5, a recreational vehicle or boat may be parked anywhere at least five (5) feet from any property line on the premises occupied by the owner, or on the public street frontage abutting such parcel between the lot lines extended, for a period not to exceed forty-eight (48) consecutive hours and not more than four (4) occasions in any calendar month. Such parking shall be deemed to be on separate occasions only if separated by at least 8 consecutive hours. Parking of a recreational vehicle in the front yard setback area shall be permitted only on a hard surface such as asphalt or concrete or on a gravel surface. Notwithstanding the foregoing, no recreational vehicle or boat shall be parked or stored in such a manner or in such location as to impede the safe and unrestricted flow of pedestrian or vehicular safety over any street, sidewalk, trail or other public way. No boat shall be parked on the street unless it is attached to a trailer, and no trailer or other recreational vehicle shall be parked on the street unless it is, or is properly attached to, a motor vehicle.
 8. Except as otherwise provided by the district regulations for a commercial district, no recreational vehicle or boat shall be parked for storage on any private property

other than that owned or occupied by the owner of the recreational vehicle or boat

- .
9. No recreational vehicle or boat required to be licensed or registered under state law shall be stored outside on private property unless it is properly registered and has affixed to it a current registration plate, sticker or other proof of registration as required for highway or other off-road use.

[Am. 07-37; Eff. 12-7-07]

10. The restriction in subs. 2 and 3 to parking on a hard surfaced or gravel area shall not apply to up to two (2) snowmobiles between November 1 and April 1, nor to up to two all-terrain vehicles, on any lot.

[Cr. 11-10; Eff. 4-15-11]

(19) STORAGE OF TRACTORS, SEMI-TRACTOR AND TRAILERS AND ROAD MACHINERY. No person, firm or corporation shall park, keep or maintain on properties zoned for residential dwellings any dump trucks, auto wreckers semi-tractor and trailers, or road machinery. Said vehicles may not be kept or parked on said premises whether or not they are in enclosed buildings, except for the purposes of unloading or servicing the premises.

(20) COMMUNITY AND OTHER LIVING ARRANGEMENTS. In addition to the locations permitted by the various district regulations, community living arrangements, foster homes, treatment foster homes and adult family homes shall be permitted as authorized in §62.23(7)(i), Wis. Stats. according to the criteria set forth therein. In cases where §62.23(7)(i) allows a use in a particular district only by special permission, said permission shall be available by conditional use permit as provided in sec. 15.16. The Village Board may order the cessation of operation, or require an application for a conditional use permit, if it finds that the operation of a community living arrangement or adult family home poses a threat to the health, safety or welfare of the residents of the Village or Town in which it is located under the procedure provided by statute.

(21) CHILDREN'S PLAY EQUIPMENT. Play apparatus, including, but not limited to, playhouses, tree houses, forts, climbing gyms, swing sets, gliders, slides and sandboxes shall be placed at a distance from the property line equal to or greater than the setback distance required for detached accessory buildings, whether or not they are placed in or on a foundation.

[Am. 07-05; Eff. 02-09-07]

(22) PORTABLE OUTDOOR STORAGE UNITS.

[Cr. 10-04, Eff. 2-4-10]

(a) Applicability. The standards within this subsection apply to portable outdoor storage units in all zoning districts, except that pars. (c)-(e) shall apply only in residential districts.

(b) Permitted Locations. Units may not be placed on a public right-of-way, including public sidewalks and public terrace areas, or on other public property except by the public entity that owns the property. Units may only be placed on property owned by the user/lessee of the storage unit. Units shall be placed on a hard, all-weather surface, such as concrete or asphalt (with gravel allowed for institutional uses in the extraterritorial zoning area). Units may not be placed in such a fashion as to impede or obstruct the flow of drainage or obstruct emergency, vehicle, pedestrian, or utility access to or through the property or area.

(c) Maximum Duration of Placement. No unit shall be placed on the same lot for more than thirty (30) consecutive days, except that the Zoning Administrator may allow an extension of no

greater than ninety (90) additional days if he or she determines that a legitimate need therefor has been established.

(d) Maximum Number. Not more than one (1) unit may be placed on any lot at any one time, nor shall there be a unit placed on any lot more than three (3) times in any calendar year.

(e) Maximum Size per Unit: No unit placed on any lot shall exceed eight (8) feet in width, nine (9) feet in height, or sixteen (16) feet in length.

(f) Permitted Uses of Units: Units may be used for temporary storage of personal goods and belongings. Units may not be used for occupancy or sleeping, housing of animals, housing or storage of hazardous, flammable, or unlawful materials or substances. Units shall be closed and secured from unauthorized access at all times when not under the direct supervision of the lot owner or occupant.

(g) Condition of Units: All units shall be maintained in a good and clean condition, free from rust, peeling paint, or other visible deterioration.

(23) CONSTRUCTION WASTE RECEPTACLES.

[Cr. 10-04, Eff. 2-4-10]

(a) Permitted Locations. Construction waste receptacles, used to temporarily store waste or recyclable building materials during a construction, renovation, or demolition project, shall be located entirely on the private property where the construction project is occurring, unless written authorization is granted by the DeForest Public Works Director in consultation with the DeForest Police Chief, or the applicable town clerk if the proposed receptacle is located in an extraterritorial zoning area. If placed in a public roadway, orange construction cones, reflectors, or other traffic safety devices shall be placed on or near the receptacle in a manner consistent with standard traffic engineering standards. The placement and maintenance of receptacles in any public right-of-way shall comply with all terms and conditions of any privilege or permit issued pursuant to §66.0425, Wis. Stats. or an applicable ordinance in conformity therewith.

(b) Maximum Duration. Construction waste receptacles shall remain only during the course of the associated construction project, and shall be removed from the premises within forty-eight (48) hours following the earlier of (i) completion of the associated project or (ii) the expiration or revocation of all building permits issued for the project.

(24) SMALL SOLAR OR WIND ENERGY SYSTEMS.

[Cr. 10-04, Eff. 2-4-10]

(a) Applicability. New small solar energy systems and small wind energy systems, as defined in sec. 15.02, are allowed as permitted accessory uses and structures, subject to the standards in this subsection. The applicable requirements of the Wisconsin Statutes, including but not limited to §§66.0401 and 66.0403, shall apply to all such systems.

(b) Permitted Locations. Small wind or solar energy systems shall meet all detached accessory building setbacks in the applicable zoning district. Additionally, small wind energy systems shall not be located in any front yard or side yard having frontage on a public street and shall be set back from the nearest property line, public road right-of-way, nearest inhabited building other than the principal inhabitable structure served by the small wind energy system and any public communication and electrical line by a distance of not less than 1.1 times the total

height of the small wind energy system. No small wind energy system shall be sited or operated in a manner that causes permanent or material interference with television or other communication signals.

(c) Height. Rooftop, ground-mounted, and building-mounted small solar energy systems shall comply with the height limits and setbacks for principal structures. For small wind energy systems located on lots up to two (2) acres in area, the total height shall not exceed sixty (60) feet. For small wind energy systems located on lots over two (2) acres in area, the total height shall not exceed 170 feet. The minimum height of the lowest extent of a turbine blade shall be thirty (30) feet above the ground or thirty (30) feet above the maximum allowable height of any structure or obstacle within 100 feet of the small wind energy system, whichever is greater. No small wind energy system tower shall have a climbing apparatus located within twelve (12) feet of the ground.

[Am. 11-10; Eff. 4-16-11]

(d) Noise: Sound emanating from a small wind energy system shall not exceed 75 dBA as measured at the property line or 50 dBA as measured at the nearest neighboring dwelling, not including the principal building(s) served by the small wind energy system.

(e) Appearance and Vegetation. Small wind energy or solar system structures shall be finished in a rust-resistant, non-obtrusive finish and color that is non-reflective. The small wind energy system structure shall be designed as a monopole or other freestanding structure and shall not use guy wires. All electrical connections shall be located underground or within a building. No small wind or solar energy system shall be lighted unless required by the Federal Aviation Administration. Clearing of natural vegetation for the purposes of installing a small wind or solar energy system shall be limited to that which is necessary for the construction, operation and maintenance of the small wind or solar energy system and as otherwise prescribed by applicable laws, regulations, and ordinances. No signs of any kind or nature whatsoever shall be permitted on any small wind or solar energy system, except that the manufacturer's identification and appropriate warning signs are allowed.

(f) Security. All access doors or access ways to towers and electrical equipment shall be lockable. Every small wind energy system shall be equipped with both manual and automatic overspeed controls.

(g) Application Procedures: A small wind or solar energy system shall require a building permit before installation. Building permit applications shall include the following information in addition to that required by the Building Code:

1. A site plan drawn to scale showing the location of the proposed small wind or solar energy system and the locations of all existing buildings, structures, public rights-of-way, and property lines. All distances shall be measured and labeled on the site plan.
2. Elevations of the site drawn to scale showing the height, design, and configuration of the small solar or wind energy system and the heights of all existing structures, buildings and electrical lines in relation to property lines and their distance from the small wind or solar energy system.
3. Standard drawings and an engineering analysis of the wind energy system's tower, including load-bearing and wind-bearing capacity.

4. A standard foundation design along with specifications for the soil conditions at the site.
5. Specific information on the type, size, rotor material, rated power output, performance, safety, and noise characteristics of the system including the name and address of the manufacturer, model, and serial number.
6. A description of emergency and normal shutdown procedures.
7. A line drawing of the electrical components of the system in sufficient detail to establish that the installation conforms to all applicable electrical codes and this subsection.
8. Evidence that the provider of electrical service to the property has been notified of the intent to install an interconnected electricity generator, except in cases where the system will not be connected to the electricity grid.
9. A sound level analysis prepared by the wind turbine manufacturer or other qualified engineer.
10. Evidence of compliance with or non-applicability with Federal Aviation Administration requirements.

(25) CENTRALIZED MAIL DELIVERY. The builder or developer of each new multiple-family residential building or multi-unit non-residential building shall provide for one or more units for the centralized delivery of U.S. Mail. All such units shall conform to U.S. Postal Service standards, including USPS-STD-4C or USPC-STD-7B, or be otherwise approved by the DeForest office of the U.S. Postal Service. Such units shall be maintained by the property owner(s) in good and working condition. Acceptable centralized mail delivery units include:

- (a) A wall-mounted centralized mail receptacle in an in-building location that is readily accessible to U.S. Postal Service personnel, with each such receptacle containing no fewer than four parcel delivery boxes.
- (b) A cluster box unit installed in an outdoor location affixed to a concrete base, accessible to pedestrians, containing at least eight parcel delivery boxes, or the total number of tenant spaces in the building if less than eight, and not interfering with traffic movement or other required facilities on a site under this Chapter.

15.05 SITE PLAN REVIEW.

(1) APPLICABILITY.

(a) Except as provided in par. (b), a site plan, prepared and approved as provided in this section, shall be required for structures and improvements prior to the issuance of any building or zoning permits in connection with:

1. All permitted uses in the elderly residential zoning district and their related accessory uses and structures.

2. All permitted uses in business, office-research, recreational, and mixed use zoning district and their related accessory uses and structures.
3. All permitted uses in multi-family residential districts and their related accessory uses and structures.
4. All permitted uses in industrial zoning districts and their related accessory uses and structures.
5. Any alteration or amendment to the site improvements or design of a previously approved site plan.
6. All conditional uses that include site or building improvements, regardless of zoning district.
7. All civic, cultural or government buildings, regardless of zoning district.
8. All other uses, and changes from existing uses, for which a site plan is required pursuant to the provisions of this section or other applicable provision of this chapter.
9. Donation bins, and related uses or structures, including any change to the number, size, or placement of donation bins or related uses or structures.

(b) Site plan approval shall not be required for remodeling or repair work which does not result in any of the following:

1. Any addition of or to a building or structure or any change in the size or location of any exterior walls or roof components of an existing building or structure.
2. Any modification to exterior site improvements which were part of a previously approved site plan.
3. Any increase in the capacity of a building, structure or lot to accommodate customers, patrons or others, or an increase in the amount of traffic likely to be generated by the use of the lot.
4. Any change in the dimensions or location of access points to the lot or any building or structure thereon, or
5. Any modification to, or change in the location of, any public improvements located on the site other than those made by a governmental entity having jurisdiction over the improvements.

(c) In the case of additions, expansions, or exterior remodeling of buildings, site improvements, or both, where pre-existing buildings or site improvements render full compliance with one or more of §§15.05(7), 15.05(8), 15.05(9), 15.06, 15.065 or 15.07(3) impractical or disproportionate to the extent of the addition, expansion, or exterior remodeling in the determination of the site plan approval authority, such authority may allow less-than-full compliance with such standards as part of the site plan approval process provided that the site and building is enhanced in each of the areas covered by such ordinance sections. In the case

of outdoor recreational facilities, the approval authority may also allow less-than-full compliance with such standards as part of the site plan approval process, provided that there are assurances that the facility will be operated by a public or non-profit entity and be available for public use.
[Cr. 11-10; Eff. 4-15-11; Am. 13-021, Eff. 10-10-13]

(2) APPLICATION AND APPROVAL PROCEDURE.

(a) Pre-application Conference. Prior to the official submission of an application for site plan review, the applicant shall confer with the Zoning Administrator and is encouraged to submit a concept plan for initial review and comment. The purpose of this step is to discuss the proposed nature of the contemplated development project, advise on ordinance requirements, and facilitate the subsequent approval process.

(b) Application. The applicant shall submit a site plan application to the Zoning Administrator on a form provided by the Zoning Administrator, in digital PDF and hard copy format. The site plan application shall not be considered for action until and unless the Zoning Administrator approves the application as complete, per the requirements of subs. (3) and (4) below.

(c) Review by Other Local Staff. Promptly upon his or her approval of a complete site plan application, the Zoning Administrator shall forward the complete site plan application and all associated materials to the following: Village Planner; Public Works Director; Village Engineer; Village Parks, Recreation, and Natural Resources Director; Police Chief; Fire Inspector; Planning and Zoning Commission members if in the Village; Clerk of the associated town if in the ETZ Area. Such persons may review the site plan application, and if so shall provide advice and recommendations to the Zoning Administrator within ten (10) business days of their receipt of such materials to assure consideration in the Zoning Administrator's approval or report to the Planning and Zoning Commission or Joint Committee.

(d) Action by Zoning Administrator; Appeal Procedure. Except as provided in par. (e), the Zoning Administrator shall, within twenty (20) business days of a complete submittal, approve the site plan as presented, approve the site plan with conditions, or reject the site plan indicating reasons for rejection, unless this timeframe is extended by written agreement of the applicant. The Zoning Administrator shall notify the applicant of such action in writing on a form designed for that purpose. Within thirty (30) days of such action, the applicant may appeal in writing all or part of the Zoning Administrator's decision to the Planning and Zoning Commission. During the appeal process, the Zoning Administrator and Building Inspector are authorized to hold the issuance of permits to enable commencement or continuation of building and other activities authorized by the Zoning Administrator's decision, and to issue a "stop work" order for any such activities already commenced.

(e) The Commission may affirm, modify, or reverse the Zoning Administrator's decision. The Zoning Administrator shall inform the Commission of all site plans submitted, reviewed, approved, and rejected under this sub. (d) during each Commission meeting.

(f) Action by Planning and Zoning Commission or Joint Committee. The Zoning Administrator shall not determine a site plan application, but shall forward the complete site plan application and all associated materials along with a report and recommendation to the Planning and Zoning Commission or Joint Committee in all cases where:

1. The applicant has indicated on the application form a desire for Planning and Zoning Commission or Joint Committee action instead of Zoning Administrator action.
2. The application is filed concurrently with a rezoning application, conditional use permit application, or both for the same site.
3. The site plan includes a retail or commercial service building in excess of 20,000 sq. ft.
4. The site plan proposes surface parking within the minimum front yard within the RM-B, B-1, B-2, B-3, A-B, or O-R district.
[Am. 16-45; Eff. 11-24-16]
5. The Zoning Administrator is unable to determine whether one or more of the standards for approval within subsection (8) will be met.
6. Review under subsection (2)(c) reveals differences that cannot be resolved by the Zoning Administrator.
7. For projects in the ETZ Area, the town board has adopted a resolution requiring the associated Joint Committee to determine site plan applications.

In the above instances, the Commission shall, between ten (10) and sixty (60) days of submittal of a complete application, approve the site plan as presented, approve the site plan with conditions, or reject the site plan including reasons for rejection, unless this timeframe is extended by written agreement of the applicant. The Zoning Administrator shall notify the applicant of such action in writing on a form designed for this purpose.

[Am. 13-021, Eff. 10-10-13]

(3) TECHNICAL SPECIFICATIONS.

(a) Site plans or any portion thereof involving engineering, architecture or land surveying shall be respectively certified by an engineer, architect or land surveyor authorized by the State of Wisconsin to practice as such.

(b) Site plans shall be prepared to a scale of one inch equals thirty feet (1" = 30') or larger, and shall include a graphic scale to enable rough scaling upon reduction or enlargement of the original.

[Am. 13-021, Eff. 10-10-13]

(c) A site plan may be prepared on one (1) or more sheets to show clearly the information required by this section. If prepared on more than one sheet, match lines shall be provided to clearly indicate where the several sheets join.

(4) REQUIRED SITE PLAN INFORMATION. All site plans shall be submitted to the Zoning Administrator with the required application, in a number of hard copies determined by the Zoning Administrator and PDF form, and accompanied by payment of all required review fees and escrows as set by the Village Board from time to time. Unless the Zoning Administrator issues a waiver, all site plan applications shall contain the following information:

[Am. 13-021, Eff. 10-10-13]

(a) General Information. The name and address of the owner or developer, the north point, date and scale of drawing and number of sheets, and the zoning and present use of all adjoining properties.

(b) Site Information.

1. The location of the tract by an insert map at a scale of not less than one inch equals two thousand feet (1" = 2000'), indicating such information as the names, numbers and widths of adjoining roads, railroads, subdivisions, towns, existing and proposed easements and utilities; watercourses and their names or other landmarks sufficient to clearly identify the location of the property. A boundary survey of the property, including a metes and bounds or lot and block description may be required by the site plan approval authority.
[Am. 13-021, Eff. 10-10-13]

2. Existing and proposed topography with a maximum contour interval of two (2') feet, except where existing ground is on a slope of less than two (2%) per cent where one (1') foot contours shall be shown.

3. A soil report prepared by or under the direction of a professional engineer experienced in soil and foundation engineering may be required for site plans located in areas with severe building limitations.
[Am. 13-021, Eff. 10-10-13]

4. The outer edges of all mature woodlands and parts of mature woodlands within the lot, and the locations and specimens of all mature trees that are not located within a mature woodland, as these terms are defined in §13.03 of the DeForest Code of Ordinances.
[Cr. 08-14; Eff. 5-16-08]

(c) Parking/Traffic Safety. A parking plan complying with the requirements of sec. 15.07.

(d) Utilities/Stormwater Management.

1. All existing and proposed water and sanitary sewer facilities, indicating all pipe sizes, types and grades and points where connection is to be made to the Village utility system.

2. Provisions for the adequate disposition of storm water, in accordance with Chapter 24 of the DeForest Municipal Code within the Village limits.
[Am. 13-021, Eff. 10-10-13]

3. Provisions for adequate temporary and permanent erosion and sedimentation control measures. Where slopes exceed 12% or where a use is proposed on land having soils that are unsuitable or marginal for development, on-site soil tests and/or construction plans shall be provided that clearly indicate that the soil conditions are adequate to accommodate the development contemplated or that any inherent soil condition or slope problems will be overcome by terracing, retaining walls, oversized foundations and footings, drain tile or other special construction techniques.

(e) Bulk Standards. The proposed location, general use, lot area, building setbacks, building height, number of stories, the number, size and type of any proposed dwelling units or commercial facilities, the minimum green space requirement, driveway width, landscape points and appropriate calculations.

(f) Public Improvements. The location and design specifications of all streets, sidewalks and other public improvements required by any Village ordinance.

(g) Landscape Plan, Lighting Plan, and Potential Tree Protection and Preservation Plan. A landscape plan complying with the requirements of sec. 15.06 and a lighting plan complying with the requirements of sec. 15.065 shall be submitted. Additionally, where the lot for which the site plan is being prepared includes one or more mature woodlands or mature trees outside of a mature woodland, both as defined under §13.03 of the DeForest Code of Ordinances, the applicant shall prepare a Tree Protection and Preservation Plan including the components listed in §13.31(5) of the DeForest Code of Ordinances, except if such a plan was prepared, approved, and implemented as part of a previous land division that included the lot.

[Am. 06-06; Eff. 6-9-06; Am. 08-14; Eff. 5-16-08]

(h) Building Elevations and Exterior Materials. All building elevations shall be provided. Building exterior materials shall be shown on the elevation drawings.

(i) Sufficient information to show how the physical improvements associated with the proposed development interrelate with existing or proposed development of adjacent properties.

(j) A signage plan meeting the requirements of §15.08 to the extent determined practical by the Zoning Administrator, plus any other information as may be required by the Zoning Administrator. [Am. 08-27; Eff. 8-22-08]

(k) Minor Site Plans. A required site plan review may be designated as a "minor site plan" by the Zoning Administrator if the property is already developed to Village standards. The Zoning Administrator may determine that designated requirements of this subsection need not be submitted in connection with an application for approval of a minor site plan if not necessary to satisfy the intent of this section.

(5) AGREEMENT AND SURETY. No site plan approval shall become effective until the developer provides an executed agreement to construct all required physical or public improvements as are:

(a) Located within public rights-of-way or easements, or

(b) Connected to any public facility as approved by the Village, or

(c) Necessary to repair or restore any public improvements or facilities or any other property not owned by the developer which is likely to be damaged or destroyed as a result of the proposed development activities.

Such agreement shall be accompanied by a letter of credit, bond or other surety in the amount of the estimated cost of the required improvements, guaranteeing the completion of all work covered thereby within the time allowed by the Zoning Administrator, which time may be extended for good cause by the Planning and Zoning Commission upon written application by the owner or developer. The adequacy and amount of any surety and the form of the agreement shall be subject to approval by the Zoning Administrator.

(6) VALIDITY AND REVISIONS. Approval of a site plan under this section shall expire one (1) year after the date of approval, unless within said period a building or zoning permit has been issued for construction in accordance therewith or the approval authority has, within said period, approved an extension. Amendments to an approved site plan and extension requests shall be approved in the same manner as the originally approved site plan, per the procedures in sub (2). A plan amendment shall not be deemed to alter the expiration date of the originally approved site plan, unless explicitly so provided in the approval authority's decision.

[Am. 13-021, Eff. 10-10-13]

(7) REQUIRED IMPROVEMENTS. Every site plan shall provide that the developer will accomplish all of the following:

(a) Construction of pedestrian walkways for use by occupants and patrons to walk from each occupancy unit to any other within the site and to adjacent sites. Wherever possible, connection shall be made to existing walkways in adjacent developments or shall be aligned with proposed future walkways. Pedestrian walkways shall be not less than six (6) feet in width wherever adjacent vehicular parking may allow for encroachment by parked vehicles over or upon any portion of the sidewalk.

[Am. 08-14; Eff. 5-16-08]

(b) Construction of curb and gutter along all public streets within the Village, and around all parking, driveway, and other vehicular access areas and landscaped islands and peninsulas within the Village and the extraterritorial zoning jurisdiction. The site plan approval authority may modify this standard to facilitate a unique stormwater management approach or condition, for lightly traveled service drives, at the edges of a phase of development of a parking area, or for storage areas. Pervious parking lots are encouraged as part of a submitted stormwater management plan.

[Am. 06-06; Eff. 6-9-06; Am. 08-14; Eff. 5-16-08; Am. 13-021, Eff. 10-10-13]

(c) Installation of an adequate drainage system for the disposition of storm water, and provision of appropriately sized and located areas for snow storage.

[Am. 08-14; Eff. 5-16-08]

(d) Installation of adequate temporary and permanent erosion and sedimentation control measures.

(e) Installation of all public utility facilities necessary to provide utility services to the property. All utilities shall be installed underground except:

1. Equipment such as the electric distribution transformers, electric transmission lines carrying 40,000 volts or more, switchgear, meter pedestals and telephone pedestals which are normally installed above ground may continue to be so installed, in accordance with accepted utility practices, for underground distribution where they are adequately screened from view;
2. Meters, service connections and similar equipment normally attached to the outside wall of the premises they serve may be so installed;
3. Temporary overhead facilities required for construction purposes shall be permitted;

(f) Vegetation removal and replacement in conformance with the requirements of sec. 15.06.

(g) All other improvements required by the Village ordinances according to established Village standards.

(8) STANDARDS FOR APPROVAL. The site plan approval authority shall approve a site plan submitted in accordance with this section only if it finds that the development of the property as provided in the site plan and any related agreements, will satisfy all applicable requirements of this chapter including all of the following standards:

[Am. 13-021, Eff. 10-10-13]

(a) The need and opportunity for dangerous traffic movements and increased traffic congestion will be minimized and adequate provisions have been made to assure safe and efficient vehicular and pedestrian traffic flow to, from and within the site;

(b) Each use permitted on the property can be efficiently provided with all necessary public utilities and the full development as permitted according to the plan will not create an unreasonable burden on any public services or utilities;

(c) Storm water and erosion will be managed in accordance with Chapter 24 of the Municipal Code;

[Am. 13-021, Eff. 10-10-13]

(d) All areas designated as wetlands, flood plains, flood ways or habitats for endangered wildlife will be preserved, or will be properly mitigated as approved by the approval authority and by any state or federal agency with jurisdiction over such areas;

[Am. 13-021, Eff. 10-10-13]

(e) Mature woodlands and individual mature trees shall be preserved per the direction of an approved Tree Protection and Preservation Plan, where such a plan is required.

[Am. 08-14; Eff. 5-16-08]

(f) Disruption of existing natural features will be avoided to the greatest extent practicable and such features will be incorporated into the design to the extent feasible;

(g) The number of curb cuts and other points of access to public streets shall be minimized and all such curb cuts or access points shall be located as far from street intersections as practicable and meet the applicable standards of §15.07(7);

[Am. 11-10; Eff. 4-15-11]

(h) Sufficient access shall be provided to all structures on the parcel for emergency vehicles and adequate facilities for fire protection shall be provided;

(i) Outdoor trash storage and compaction areas, storage for more than ten (10) vehicles, truck parking, HVAC equipment, above ground flammable liquid or gas storage tanks, and loading docks are screened, recessed, or enclosed from view. Enclosure or screening shall be accomplished by the use of berms, landscaping plants, a fence or wall, an adjoining building, or some combination thereof as may be required under this chapter. If a fence or wall is used for screening, the materials used shall be similar to those used on the principal structure. Fences or walls for the purposes of this paragraph shall be set back at least eight (8) feet from any property line and such 8-foot setback area shall be used for the planting and maintenance of decorative

landscaping between the wall or fence and the property line. The approval authority may approve a reduction or waiver of fence or wall setback, screening, or material requirements for areas adjacent to property with an existing commercial or industrial use with similar storage or loading arrangements as the proposal.

[Am. 09-05, Eff. 319-09; Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13]

(j) All areas intended for pedestrian traffic shall be clearly distinguished from vehicular traffic areas, adequately lighted, and handicapped accessible in compliance with state and federal standards;

(k) On any portion of any site where the current or post-development slope exceeds or will exceed 12%, adequate engineering measures have been taken to assure the stability of the site and any structures to be located thereon;

(l) All necessary approvals have been received from any other governmental body with jurisdiction over the property to allow for the development according to the plan, unless the site plan approval is made contingent on such approvals being obtained by a date certain;

[Am. 13-021, Eff. 10-10-13]

(m) All public facilities will comply with the applicable design standards established by applicable ordinances;

(n) The development of the property in accordance with the plan will not unreasonably impair the aesthetic appearance of the property or the general area, interfere with the reasonable use or enjoyment of neighboring properties for uses already established or permitted thereon, significantly impair the value of other properties in the area, impair reasonable pedestrian access and circulation, or result in an unattractive collection of trash, rubbish, or other materials on an inappropriate site or portion of a site;

[Am. 12-09, Eff. 5-24-12]

(o) All reasonable measures have been taken in the design of the site and the improvements thereon to protect the safety of the occupants and frequenters of the site and the general public;

(p) The development according to the plan will not violate any applicable state or federal law, regulation or order or any other applicable ordinance or conflict with any material feature of the Village Master Plan or an applicable comprehensive plan.

(q) Compliance with applicable design standards for commercial uses included in the Comprehensive Plan may be required by the approval authority. All structures in the B-1, B-2, B-3, RM-B, and O-R districts shall have at least 35% of the combined area of their exterior walls covered by brick, native stone, tinted or textured concrete masonry units, windows, or other decorative material as may be approved by the approval authority. The area of "exterior walls" shall be calculated as the total amount of wall area below the roof line that is visible from grade level views on each side of the structure, and such calculations shall be included in the application materials. If the amount of decorative material on the exterior walls of principal building is in excess of 35%, then the approval authority may credit the excess amount against the requirement otherwise applicable to the exterior walls of accessory buildings on the same lot.

[Am. 06-06; Eff. 6-9-06; Am. 08-14; Eff. 5-16-08; Am. 11-10; Eff. 4-15-11; Am. 13-021, Eff. 10-10-13]

(r) Wherever possible, commercial development shall front on adjacent streets.

(s) Site plans shall minimize the impact of parking lots and structures on the streetscape to the extent possible.

[Am. 13-021, Eff. 10-10-13]

(t) In districts zoned B-2 or B-3, where ever possible, less than 50% of off-street parking for the entire property shall be located between the front facade of the principal building and the primary abutting street.

(u) Each facade greater than 100 feet in length shall employ structural or decorative elements to reduce the apparent size and scale of the building, such as varying building setbacks, varying heights, varying roof treatments or slopes, doorway openings, window openings, awnings, or decorative lighting. [Am. 13-021, Eff. 10-10-13]

(v) Compliance with design standards for multiple family housing included in the Comprehensive Plan may be required by the approval authority. All structures in the RM-3, RM-4, and RM-5 districts shall have at least 35% of the combined area of their exterior walls covered by brick, native stone, tinted or textured concrete masonry units, windows, or other similar decorative material as may be approved by the approval authority. "Exterior" shall be calculated as the total amount of wall area below the roof line that is visible from grade level views on each side of the structure, and such calculations shall be included in the application materials. If the amount of decorative material on the exterior walls of principal building is in excess of 35%, then the approval authority may credit the excess amount against the requirement otherwise applicable to the exterior walls of accessory buildings on the same lot.

[Am. 06-06; Eff. 6-9-06; Am. 08-14; Eff. 5-16-08; Am. 13-021, Eff. 10-10-13; Am. 15-036, Eff. 7-30-15]

(w) Compliance with applicable design standards for industrial uses included in the Comprehensive Plan may be required by the approval authority. All structures in the M-1, M-2, and M-3 districts shall have at least 15% of the combined area of their exterior walls covered by brick, native stone, tinted or textured concrete masonry units, windows, or other similar decorative material as approved by the approval authority. "Exterior" shall be calculated as the total amount of wall area below the roof line that is visible from grade level views on each side of the structure, and such calculations shall be included in the application materials. Any amount of decorative material on the exterior walls of principal building in excess of the required percentage may be credited against the requirement applicable to accessory buildings on the same lot.

[Am. 06-06; Eff. 6-9-06; Am. 08-14; Eff. 5-16-08; Am. 11-10; Eff. 4-15-11; Am. 13-021, Eff. 10-10-13]

(x) In the event that the a fence along a lot line is approved, the applicant shall submit to the Zoning Administrator a perpetual agreement or covenant specifying adequate provisions for ongoing maintenance of such fence. Prior to the installation of such fence, such agreement or covenant shall be approved by the Zoning Administrator and recorded by the applicant against the affected properties.

[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13]

(y) The site plan shall conform to all Environmental Standards established in Section 15.04(12).

[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13]

(z) Where applicable under Section 15.04(25), the site or building plans shall designate a location for centralized mail delivery.

(9) SPECIAL REQUIREMENTS FOR LARGE RETAIL ESTABLISHMENTS. In addition to all other provisions of this section, the following provisions shall apply to all site plans which include a retail or commercial service building in excess of 20,000 ft² gross floor area. In any case where the provisions of this subsection conflict with, or are more restrictive than any general requirements provided elsewhere in this Code, the requirements of this subsection shall apply.

(a) Building Location. Where buildings are proposed to be located more than 200 feet from a public street, the overall development design shall include smaller buildings on pads or outlots between such buildings and the street. Placement and orientation of buildings shall facilitate appropriate land use transitions and appropriate traffic flow to adjoining roads and neighboring commercial areas, and neighborhoods, and must forward community character objectives as described in the Village's Comprehensive Plan.

(b) Building Materials. Exterior building materials shall be of comparable aesthetic quality on all sides. Building materials such as glass, brick, tinted and decorative concrete block, wood, stucco, and exterior insulation and finish systems (EIFS) shall be used, as determined appropriate by the Planning and Zoning Commission. Decorative architectural metal with concealed fasteners or decorative tilt-up concrete panels may be approved if incorporated into the overall design of the building.

(c) Building Design. The building exterior shall complement other buildings in the vicinity, and shall be of a design determined appropriate by the Plan Commission. In addition to the standards of Section 15.05(8)(a), the more restrictive of the following shall apply:

1. The building shall employ varying setbacks, heights, roof treatments, doorways, window openings, and other structural or decorative elements to reduce apparent size and scale of the building.
2. A minimum of twenty (20) percent of the structure's façades that are visible from a public street shall employ actual protrusions or recesses with a depth of at least six feet. No uninterrupted façade shall extend more than 100 feet.
3. A minimum of twenty (20) percent of all of the combined linear roof eave or parapet lines of the structure shall employ differences in height, with such differences being six (6) feet or more as measured eave to eave or parapet to parapet.
4. Roofs with particular slopes may be required by the Planning & Zoning Commission to complement existing buildings or otherwise establish a particular aesthetic objective.
5. Ground floor facades that face public streets shall have arcades (a series of outdoor spaces located under a roof or overhang and supported by columns or arches), display windows, entry areas, awnings, or other such features along no less than fifty (50) percent of their horizontal length. The integration of windows into building design is required, and such windows shall be of transparent glass or tinted to no more than 50% transparency between three (3) to eight (8) feet above the walkway along any façades facing a public street. The use of blinds may be approved where the Planning & Zoning Commission determines that the use thereof will aesthetically enhance the building facade.
6. Building facades shall include a repeating pattern that includes no less than three (3) of the following elements: (i) color change, (ii) texture change, (iii) material modular change, (iv) expression of architectural or structural bay through a change

in plane no less than twenty four (24) inches in width, such as an offset, reveal or projecting rib. At least one of these elements shall repeat horizontally. All elements shall repeat at intervals of no more than thirty (30) feet, either horizontally or vertically.

(d) Building Entrances. Public building entryways shall be clearly defined and highly visible on the building's exterior design, and shall be emphasized by on-site traffic flow patterns. Two (2) or more of the following design features shall be incorporated into all public building entryways: canopies or porticos, overhangs, projections, arcades, peaked roof forms, arches, outdoor patios, display windows, distinct architectural details. Where additional stores will be located in the principal building, each such store shall have at least one exterior customer entrance that shall conform to the above requirements.

(e) Building Color. Building facade colors shall be non-reflective, subtle, neutral, or earth tone. The use of high intensity colors, metallic colors, fluorescent colors or black on facades is prohibited. Building trim and architectural accent elements may feature bright colors or black, but such colors shall be muted, not metallic, not fluorescent, and not specific to particular uses or tenants. Standard corporate and trademark colors shall be permitted only on signage.

(f) Screening. In addition to the standards of Section 15.05(8)(i), the more restrictive of the following shall apply:

1. All ground-mounted and wall-mounted mechanical equipment, refuse containers and any permitted outdoor storage shall be fully concealed from on-site and off-site ground level views, with materials identical to those used on the building exterior.
2. All rooftop mechanical equipment shall be screened by parapets, upper stories, or other areas of exterior walls or roofs so as to not be visible from public streets adjacent or within one thousand (1,000) feet of the subject property. Fences or similar rooftop screening devices may not be used to meet this requirement.
3. Loading docks shall be completely screened from surrounding roads and properties. Said screening may be accomplished through loading areas internal to buildings, screen walls, which match the building exterior in materials and design, fully opaque landscaping at time of planting, or combinations of the above.
4. Gates and fencing may be used for security and access, but not for screening, and they shall be of high aesthetic quality. Decorative metal picket fencing and screening is acceptable. Decorative, heavy-duty wood gates may be used. Chain link, wire mesh or wood fencing shall not be used.

(g) Traffic Impact. In addition to the standards of Section 15.05(8)(a), the more restrictive of the following shall apply:

1. All projects shall have direct access to an arterial street, or to a collector level street deemed appropriate by the Plan Commission.
2. Vehicle access shall be designed to accommodate peak on-site traffic volumes without disrupting traffic on public streets or impairing pedestrian safety. This shall be accomplished through adequate parking lot design and capacity; access drive

entry throat length, width, design, location, and number; and traffic control devices; and sidewalks.

3. The site design shall provide direct connections to adjacent land uses if determined necessary by the Planning & Zoning Commission to optimize safety and convenience in traffic and pedestrian movements. Prior to approval of developments over 40,000 square feet, the applicant shall provide adequate funding to the Village to hire a traffic engineer of the Village's choice to complete and present a Traffic Impact Analysis following Wisconsin Department of Transportation District One guidelines. The Traffic Impact Analysis shall consider the parking lot 100% full for level of service analysis. Where the project will cause off-site public roads, intersections, or interchanges to function below Level of Service C, as defined by the Institute of Transportation Engineers, the Village may deny the application, require a size reduction in the proposed development, or require that the developer construct and/or pay for required off-site improvements.

(h) Parking. In addition to the standards of Section 15.07, the following will apply:

1. Parking lots in which the number of spaces is 20% or more than the minimum number of parking spaces required in Section 15.07(4), shall be permitted only if the Planning & Zoning Commission finds specific and reasonable justification therefor.
2. Parking lot design shall employ landscaped islands, peninsulas, and other features per Section 15.06(10).
[Am. 18-09, Eff. 6-15-18; Appl. to ETZ 18-17, Eff. 8-31-18]

(i) Bicycle and Pedestrian Facilities.

1. The entire development shall provide for safe pedestrian and bicycle access to all uses within the development, connections to existing and planned public pedestrian and bicycle facilities, and connections to adjacent properties.
2. Pedestrian walkways shall be provided from all building entrances to existing or planned public sidewalks or pedestrian/bike facilities. The minimum width for sidewalks adjacent to buildings shall be ten (10) feet; and the minimum width for sidewalks elsewhere in the development shall be five (5) feet.
3. Sidewalks other than street sidewalks or building aprons shall have adjoining landscaping along at least fifty (50) percent of their length. Such landscaping shall match the landscaping used for the street frontages.
4. Crosswalks shall be clearly distinguished from driving surfaces to enhance pedestrian safety by using different pavement materials, pavement color or pavement textures in addition to signage.
5. The development shall provide secure, integrated bicycle parking at a rate of one bicycle rack space for every fifty (50) vehicle parking spaces.
6. The development shall provide exterior pedestrian furniture in appropriate locations at a minimum rate of one seat for every 20,000 square feet of gross floor area.

7. The development shall provide interior pedestrian furniture in appropriate locations at a minimum rate of one (1) bench seat for every 10,000 square feet of gross floor area. Seating in food service areas, or other areas where food or merchandise purchasing activities occur shall not be counted in determining compliance with this requirement. A minimum of four (4) seats shall be located within the store, with a clear view through exit doors to a passenger pick-up or drop-off area.

(j) Central Areas and Features. Each development exceeding eighty thousand (80,000) square feet in total gross floor area shall provide central area(s) or feature(s) such as a patio/seating area, pedestrian plaza with benches, outdoor playground area, water feature, and/or other such deliberately designated areas or focal points that adequately enhance the development and Village. All such areas shall be openly accessible to the public, connected to the public and private sidewalk system, designed with materials compatible with the building and remainder of the site, and shall be maintained over the life of the building project.

(ja) Emergency Services and Security Plan. Each project that includes a retail or commercial service building of 20,000 square feet or greater shall be subject to preparation of an Emergency Services and Security Plan (ESSP) by the applicant, submittal of that ESSP with the site plan review application, approval of the ESSP by both the fire and police chiefs, and implementation and ongoing maintenance of the approved ESSP by the property owner. Each ESSP for such projects shall include the following components, except if one or more components is waived by both the fire and police chiefs:

1. Summary of overall approval to emergency services and security, including training, personnel, equipment, site and building design, and ongoing maintenance.
2. Working drawings with all required hydraulic calculations and specifications prepared by the installing contractor for an automatic fire sprinkler system, which shall be designed and monitored in accordance with National Fire Protection Association (NFPA) guidelines; specify sprinkler control rooms located with adequate access for Fire Department, sprinkler maintenance, and inspection personnel and at least forty (40) feet from all gas meters, electrical meters and transformers; allow direct access from the building exterior to the sprinkler control valve; specify hydraulic designs based on 90% available water supply (10% safety margin shall be maintained); and be based on the most current approved water flow test conducted in accordance with NFPA 291.
3. A program and plan for the street addressing of all buildings, and all separate business ownerships within the buildings, consisting of street numbers, not less than six (6) inches in height, placed on the exterior wall of the building(s) facing the street, service drive, or parking lot providing primary access to the building(s) and located adjacent to any primary entrance door. The plan shall also specify that all rear service doors shall also be clearly and permanently labeled with the occupant names and street address.
4. Specifications for a fire alarm system, fire access roads, fire lanes, fire hydrants, fire department standpipes (for buildings of over two stories), and access boxes that meet minimum specifications maintained and from time to time amended by the Fire Department.

5. A plan and provisions for a centrally located security room that will be accessible and used by the Village departments responsible for public safety.
6. A program for emergency and disaster incident preparedness and response.
7. Plans and specifications for an exterior digital security imaging system (DSIS) for security surveillance purposes. The DSIS shall provide for complete surveillance of all exterior building perimeters, rear and side areas, walkways, other common areas and parking lots within the project. Such systems shall function continuously, whether the businesses are open or closed, and shall provide visible surveillance to the above-described areas during hours of darkness. All digital video recorded by such system shall be archived on the project site for a period of not less than two (2) weeks, and shall be available to the Village for public safety purposes directly through Internet Protocol (IP) transmission via the Village's area wide data network and shall also provide a "real time", "live look" surveillance capability via that same network. Equipment deployed under this requirement shall conform to minimum standards available from the DeForest Police Department. All parcels on which such equipment is operated shall have conspicuously posted at each entrance thereto a sign providing notice that video surveillance equipment is in use.
8. Provisions for the ongoing maintenance and, where necessary, replacement of systems described in this subsection in perpetuity. The project shall be required to provide, install and maintain in good working order all systems described in this subsection, and grant necessary easements to the Village allowing access and maintenance rights to all such systems, devices, and areas. If the development consists of multiple buildings, tenant spaces and/or phases, all systems described above shall be installed and fully operational for the applicable building upon the occupancy of that building or portion of that building.
[Par (j) as created by 08-14; Eff. 5-16-08, renumbered by revisor]

(k) Cart Returns. A minimum of one (1) two hundred (200) square foot cart return area shall be provided for every one hundred (100) parking spaces. Cart corrals shall be of durable, non-rusting, all season construction, and shall be designed and colored to be compatible with the building and parking lot light standards. Cart return areas shall be reasonably distributed throughout the parking area but no exterior cart return or cart storage areas shall be located within twenty-five (25) feet of the building.

(l) Outdoor Display Areas. Exterior display areas shall be permitted only where clearly depicted on the approved site plan. All exterior display areas shall be separated from motor vehicle routes by a physical barrier visible to drivers and pedestrians, and by a minimum of ten (10) feet. Display areas on building aprons shall maintain a minimum walkway width of ten (10) feet between the display items and any vehicle drives.

(m) Outdoor Storage Uses and Areas. Exterior storage structures or uses, including the parking or storage of service vehicles, trailers, equipment, containers, crates, pallets, merchandise, materials, fork lifts, trash, recyclables, and all other items shall be permitted only where clearly depicted and labeled on the approved site plan, such outdoor storage uses and areas shall be appropriately screened as required by Section 15.06(9).

(n) Landscaping. In addition to the standards of Section 15.06, the following, where more restrictive, shall apply. On-site landscaping shall be provided at time of building occupancy and maintained per the following landscaping requirements:

1. Landscaping plan shall be submitted to the Planning Commission for approval, as part of the site plan.
2. Building foundation landscaping is required for all building elevations in order to provide visual breaks in the mass of the building. Such foundation landscaping shall be placed along thirty (30) percent of the building's total perimeter, predominately near and along customer facades and entrances facing public streets. One (1) ornamental tree with a minimum 1.5" caliper or one (1) minimum 6-foot tall tree ("whips" not permitted), and four (4) shrubs at a minimum height of 18" tall shall be planted for every 10 linear feet of building foundation planting area. One (1) street tree at a minimum of 2.0" caliper shall be planted at fifty (50) foot intervals along, and within ten (10) feet of, all public and private streets and drives, including parking lot connections and circulation drives, and loading areas. Such tree plantings shall be planted in tree wells along the circulation drives adjacent to the sides of the building that face a public or private street, along both sides of internal drives, and along the outside edge of loading areas. See Section 15.06 for appropriate tree species variety.
3. One (1) shade tree at a minimum of 2.0" caliper shall be planted on each parking lot peninsula and island. See Section 15.06 for appropriate tree species variety.
4. Tree wells shall be a minimum of thirty-six (36) square feet. All other landscaped areas shall be at least ten (10) feet wide in their smallest dimension.
5. All parcels of land with buildings exceeding forty thousand (40,000) square feet in total gross floor area shall be separated from any abutting area zoned or planned for residential, institutional, or office use, by a berm not less than six (6) feet in height. The berm shall be planted with a double row of white, green or blue spruce plantings, or similar species and varieties approved by the Zoning Administrator, spaced fifteen (15) feet on center.

(o) Lighting. In addition to the standards of Section 15.04(12)(f), the following, where more restrictive, shall apply:

1. Total cut-off luminaries with angles of less than ninety (90) degrees shall be required for all pole and building security lighting to ensure no fugitive up-lighting occurs.
2. At a minimum, as measured over ambient lighting conditions on a clear night, exterior lighting shall not exceed more than 0.5 foot-candles above ambient levels along all property lines, and shall not exceed an average illumination level of 3.6 foot-candles nor provide less than 0.9 foot-candles in public parking and pedestrian areas.
3. The color and design of pole lighting standards shall be compatible with the building and the Village's public lighting in the area, and shall be uniform throughout the

entire development site. The maximum height for all poles shall be twenty (20) feet.

(p) Signage. In addition to the standards contained in Section 15.08, the following, where more restrictive, shall apply.

1. The plan for exterior signage shall provide for modest, coordinated, and complimentary exterior sign locations, configurations, and color throughout the development, including outlots.
2. All freestanding signage within the development shall complement on-building signage.
3. Monument style ground signs are required, and shall not exceed a height of eight (8) feet.
4. Consolidated signs for multiple users may be required instead of multiple individual signs.
5. The Planning & Zoning Commission may require the use of muted corporate colors on signage if proposed colors are not compatible with the Village's design objectives for the area.
6. The use of logos, slogans, symbols, patterns, striping and other markings, and colors associated with a franchise or chain is permitted, and shall be considered as contributing to the number and area of permitted signs.

(q) Natural Resources Protection. Each project shall meet the Erosion Control and Stormwater Management standards found in Chapter 24 of this Code. In general, existing natural features shall be integrated into the site design as a site amenity. Storm water detention or conveyance features shall be adequately maintained by the developer/owner unless dedicated to, and accepted by, the Village.

(r) Outlots. All buildings on outlots shall be of architectural quality comparable to the primary structure as determined by the Planning & Zoning Commission.

[Cr. 05-10, Eff. 4-4-05]

(10) **EMERGENCY SERVICES AND SECURITY PLAN**. Each site plan submittal including one or more buildings of greater than 40 feet in building height shall include an Emergency Services and Security Plan (ESSP). Such ESSP will be subject to approval by both the fire and police chiefs. The property owner shall be responsible for implementation and ongoing maintenance of the approved ESSP. Each ESSP for such buildings shall include the components listed in §15.05(9)(j), except if one or more components is waived by both the fire and police chiefs.

[Am. 08-14; Eff. 5-16-08]

(11) **SPECIAL REQUIREMENTS FOR CAMPGROUNDS**. In addition to all other applicable provisions of this section, the following provisions shall apply to all new campgrounds, along with expansions to campgrounds legally established as of January 1, 2015.

(a) A site plan approval application for a new or expanded campground shall include the following information:

1. A written description of the proposed operation, including proposed months of operation; desired number, types, and characteristics of different desired camping units; other ancillary uses existing or proposed for the site; operational procedures (e.g., noise and nuisance control, clean-up); emergency access and evacuation plan; and assurances that the campground will be developed and operated in accordance with all approved plans.
2. A campground plan map, drawn to scale, and including the existing and proposed layout; location of camp sites and camping units, roads, parking areas, and site boundaries; existing and proposed topography (grading); minimum required yards; existing and proposed buildings and other structures; common recreational facilities; emergency/tornado shelter; water supplies; sanitary waste disposal systems; stormwater management system meeting the requirements of Chapter 24 as applicable; covered refuse storage areas enclosed by opaque walls or fences; existing natural features including waterways, wetlands, floodplains, shoreland-wetland, and shoreland areas; and existing and proposed vegetation and recreation areas.

(b) No single camping unit shall be occupied by the same party for a period of time longer than nine continuous months in any 12 month period, except as may be further limited by state statutes or administrative rules.

(c) The campground shall have clear, legal access to a public road. The campground shall have at least two ways to access and depart the site in emergency situations. All driveways shall be at least 12 feet in width and have curves to support recreational vehicle use.

(d) Camp sites and access roads shall be located, graded, and maintained so as to provide each site with positive site drainage.

(e) Maximum gross density shall be eight individual camp sites or camping units per acre of active camping area. Active camping area consists of camp sites and land supporting the camp sites including access roads, recreational facilities, and other permanent campground infrastructure.

(f) Each individual camp site shall be at least 1,200 square feet in area, and there shall be a minimum separation of 10 feet between camping units.

(g) Each camp site shall be clearly marked with an alpha or numeric symbol on a sign which is clearly visible from an access road. All camp sites shall be labeled on a map, which shall be provided to each campground occupant; local police, fire, and emergency service provider; and 911 dispatch center.

(h) Each campground shall provide common recreational space of suitable size, location, and amenities for the expected patrons.

(i) Each campground may provide places to procure food, drink, sundries, or souvenirs to patrons, provided that sales to those who are not patrons of the campground do not exceed 25 percent of total sales.

(j) Each campground shall be maintained under a single ownership.

(k) The number of camping cabins within a campground shall not exceed 25 percent of the total number of camping units in the campground at any time.

(l) Each campground may contain one full-time residence for an owner or caretaker of the campground.

Each campground shall comply with all state regulations applicable to campgrounds, except as may be permitted through other licenses or approvals from the state.

(12) PRE-CONSTRUCTION MEETING AND INSPECTIONS. Prior to the issuance of any required building, stormwater management, and/or erosion control permit for any development granted site plan approval, the Zoning Administrator or designee may require a preconstruction meeting involving the applicant, its contractors, and staff and contractors representing the Village. Following such meeting, the Zoning Administrator or designee may complete or direct inspections of construction progress relative to the approved site plan, Village conditions of approval, and the requirements of this chapter. The Zoning Administrator may issue orders for compliance with any applicable local requirement, and may cause appropriate action or proceeding to enforce such approved site plans and associated requirements pursuant to §§15.03(1)(b)9 and (8).

[Am. 18-09, Eff. 6-15-18; Appl. to ETZ 18-17, Eff. 8-31-18]

15.06 LANDSCAPE PLANS.

(1) **LANDSCAPE PLAN REQUIRED.** A landscape plan prepared by an individual experienced in landscape design shall be submitted as part of all applications for site plan review under §15.05. In the event that a proposed addition would bring the total building size or paved area to 50% or greater of the original building or paved area size, all quantitative landscaping standards in this section shall be met. Smaller building or paved area additions shall require the site to be brought into compliance with the quantitative landscaping standards in proportion to the size of the addition as compared to the original building or paved area to the extent the site plan approval authority determines practical.

[Am. 06-06; Eff. 6-9-06; Am. 13-021, Eff. 10-10-13]

(2) **DEFINITIONS AS USED IN THIS SECTION.** For the purpose of this section the following definitions shall apply unless the context clearly indicates a different meaning.

(a) **Berm:** A hill or contour of land that acts as a visual barrier between a lot and adjacent property, alley, or street.

(b) **Caliper:** A measurement of a tree equal to the diameter of its trunk measured six (6") inches above natural grade for trees less than or equal to four (4") inches in diameter at such point; and measured twelve (12") inches above grade for all other trees.

(c) **Diameter at Breast Height or D.B.H.** The diameter of a tree measured at four and one-half feet (4-1/2') above the existing grade at the base of the tree.

(d) **Deciduous:** A plant which sheds its foliage at the end of each growing season.

(e) **Evergreen.** A tree or shrub whose foliage persists year round. The plant may be a cone and needle bearing plant (i.e., pine, spruce, etc.) or a broadleaf plant (i.e., a rhododendron, holly, etc.)

(f) **Opaque:** When describing a landscape buffer means a dense, solid mass of plantings completely obstructing the view of uses on the other side of the buffer.

(g) **Parkway:** Means the area between the street/curb and the property-line.

(h) **Remove or Removal:** Means the causing or accomplishing of the actual physical removal of a tree, or the effective removal through severe pruning, damaging, poisoning, or other direct or indirect action resulting in, or likely to result in, the death of a tree.

(i) **Shrub:** Deciduous or evergreen woody plant with an expected mature height of generally not more than fifteen (15') feet, with single or multiple trunks or multiple leaders.

(j) **Swale:** A topographical indentation which channels periodic water runoff.

(k) **Tree, Canopy:** A deciduous, woody plant with an expected mature height of thirty feet or more and possessing either a single trunk or multiple trunks, except those species listed in sec. 15.06(5)(a)1 or 2.

(l) **Woodland:** An area or stand of trees not being grown for commercial purposes whose total combined canopy covers an area of one-half (1/2) acre or more and at least fifty percent

(50%) of which is composed of canopies of trees having a caliper of at least eight (8) inches, or any grove consisting of eight (8) or more individual trees having a caliper of at least ten (10) inches whose combined canopies cover at least fifty percent (50%) of the area encompassed by the grove.

(m) Landscape Features. A distinctive area or element intended to aesthetically enhance the site, such as a rock garden, split rail fence, fountain, or bermed planting area. Landscape features may be located within the setbacks, but shall not be located within the street right of way area or vision corner. Landscape features located within the front yard setback shall not exceed four (4) feet in height.

(3) FORM AND CONTENT OF PLANS. All landscape plans shall be titled in the form of: "Landscape Plan, [name and location of project]" shall be drawn at a scale not smaller than 1" = 20' and shall include the following information:

(a) The name and address of the project developer, the location and names of abutting streets and rights of way, a graphic and written scale, the date of the plan and any subsequent revision;

(b) The location and dimensions of all existing and proposed property lines, buildings, structures, parking lots and driveways, roadways and rights-of-way, easements, sidewalks, bicycle paths, refuse disposal areas, fences, freestanding electrical equipment, light fixtures, other surface utility structures, signs and other freestanding structural features, recreational facilities, setbacks and easements.

(c) The location, quantity, installation size, mature size, and both scientific and common names of all proposed plant materials.

(d) Existing and proposed contours, including the location, slope ratios (horizontal/vertical) of all proposed berthing, at two foot (2') contour intervals.

(e) The location, dimensions, general elevations and slope ratios of all detention and retention areas and drainage ways.

(f) Details and elevations at the top and bottom of all proposed retaining and screening walls and all fences.

(g) The designation, location, species and size of all existing trees eight inches (8") and larger in diameter measured four feet (4') above natural grade with any trees to be removed clearly identified. In the event a significant number of trees exist in concentrated areas on the site, only the boundaries of the tree grove/forest or woodland area need be shown.

(h) The number and total area in square feet of parking areas, the percentage and area in square feet of all interior parking lot landscape areas, the total linear length of buffer yards, the quantities of various plants to be provided within buffer yards, and the area in square feet of the proposed interior open space on the property.

(i) Additional elevations, cross sections and other site or construction details determined to be necessary by the Zoning Administrator.

(4) LANDSCAPE IMPROVEMENT STANDARDS. The following standards shall apply in determining the landscaping improvements required to be installed as part of the development of land requiring site plan approval:

(a) The development, redevelopment, expansion, or substantial modification of buildings or site improvements or substantial changes in use subject to the provisions of this chapter shall include at least the minimum amount of landscaping described in this section and in the district regulations. Landscaping materials which meet the minimum installation sizes shown below shall earn landscaping points per plant as indicated in the following table. The classifications of individual plant species shall correspond to the classification used in the publication entitled: A Guide To Selecting Landscape Plants For Wisconsin, E. R. Hasselkus, U. W. Extension Publication: A2865 which shall be maintained on file with the Zoning Administrator for public inspection.

a. LANDSCAPING POINTS AND INSTALLATION SIZES		
PLANT CATEGORY*	LANDSCAPING POINTS PER PLANT	MINIMUM INSTALLATION SIZE
Canopy Tree	75	2" Caliper
Tall Deciduous Tree	30	1 ½" Caliper
Medium Deciduous Tree	15	6' Tall
Low Deciduous Tree	10	4' Tall
Tall Evergreen Tree	40	5' Tall
Medium Evergreen Tree	20	4' Tall
Low Evergreen Tree	12	3' Tall
Tall Deciduous Shrub	5	36" Tall
Medium Deciduous Shrub	3	24" Tall
Low Deciduous Shrub	1	18" Tall
Medium Evergreen Shrub	5	18" Tall/Wide
Low Evergreen Shrub	3	12" Tall/Wide
Bio-Retention Swales/Rain Gardens/Green Roofs (when deliberately planted with appropriate, non-turf species per industry standards)		
Landscaping Points per 100 Square Feet in Area (not to exceed 300 total points)	20	Maximum Spacing Between Plantings 12"

[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13]

(b) Method to Determine Future Use of Vacant Land. For the purposes of determining landscaping and buffering requirements of this section, whenever a site is adjacent to vacant or

undeveloped land, the method to be used to determine the future use of the adjacent land shall be as follows:

1. Incorporated Lands. The future use of land within the corporate limits of the Village of DeForest shall be that shown on the Village's Zoning Map.
2. Unincorporated Lands. For properties not within the corporate limits of the Village of DeForest, the future use of land shall be that shown in the applicable town Comprehensive Plan.
[08-14; Eff. 5-16-08]
3. Plant Variety. The plan shall provide for a variety of species of trees and shrubs on each parcel to provide visual and seasonal diversity and to reduce the likelihood of extensive loss as a result of insect infestation or the spread of disease within a given species. The required number of different species shall be as follows:

Size of Parcel	Qty. of Tree Species	Qty. of Shrub Species
0 up to but not including 1.5 acres.	N/A	N/A
1.5 acre up to but not including 5 acres	2	3
5 acres up to but not including 15 acres	4	5
15 acres or more	5	7

(5) SELECTION OF SPECIES.

(a) In the preparation of landscape plans under this section, the planting of the following trees is prohibited in the public right-of-way, and shall be minimized within 15 feet of any lot line and parking lot:

1. Ailanthus (Tree of Heaven)
2. Box Elder (*acer negundo*)
3. Catalpa
4. Cottonwood (*populus deltoids*)
5. European Mountain Ash
6. European White Birch
7. Fruit-bearing Trees (except that Crabapples and trees where the fruit is intended for harvest shall be permitted)
8. Lombardy Poplar
9. Mulberry
10. Siberian Elm
11. Silver Maple (*acer saccharinum*)
12. Walnut

13. Willow (except along water edges)
14. Evergreen trees (prohibited in the public right-of-way, discouraged in parking lot islands, not discouraged in other locations).
15. American Elm (*almus american*)
16. Black Locust (*robinia pseudacelia*)
17. Hickory (*carya*)
18. Other weak-wooded or trees which deposit significant number of twigs, seed pods, fruits, nuts or other debris as determined by order of the Zoning Administrator.

(b) Several shrubs and trees, which are not native to Wisconsin, have an established history of spreading to nearby parks and conservancy areas. These non-native plants tend to become overly abundant and ultimately eliminate many desirable native species. In addition, some native species are undesirable due to the threat of invasive insects. The control and eradication of these unsuitable plants create a costly management problem. The following species of plant material are prohibited for use as landscape plants:

1. Honeysuckle: *Lonicera-bella*, *Lonicera marrawi*, *Lonicera tatarica*
2. Buckthorn (common): *Rhamnus cathartica*, *Rhamnus frangula* (tall hedge)
3. Russian Olive: *Elaeagnus angustifolia*
4. Norway Maple: *Acer platanoides*
5. Native Ash
6. Paper Birch

(c) The following trees are overused along public roadways in the Village. Therefore, their planting in public rights-of-way shall be allowed only where specifically approved by the Director of Parks, Recreation, and Natural Resources:

1. Maple (acer)
2. Linden and Basswood (tilia)
[Am. 11-10; Eff. 4-15-11; Am. 13-021, Eff. 10-10-13]

(6) SELECTION, INSTALLATION AND MAINTENANCE OF PLANT MATERIALS.

(a) Plant Quality.

1. Planting materials used to comply with this section shall be of specimen quality, shall have been grown in the same hardiness zone as central Wisconsin, and be capable of withstanding extremes of individual site microclimates.
2. Trees selected for planting shall be healthy, free of insects, diseases and damage that would threaten the viability of the plant. Parkway trees and parking lot trees shall have a minimum branching height of six (6) feet above the ground to allow adequate visual and physical clearance.
3. All plant material shall comply with the provisions set forth by the American Standard for Nursery Stock, ANSI Z60.1-1980.

(b) Installation. All landscaping shall be installed according to the following requirements:

1. All plantings shall be installed in accordance with the Wisconsin Department of Transportation Standard Specifications for Road and Bridge Construction.
2. All unpaved areas within a street right-of-way and all swales forming the drainage system for a parcel shall be sodded or seeded. In all commercial, office and industrial districts, a water supply for maintaining adequate moisture levels in the parkways shall be provided within one hundred (100') feet of all points within the parkway.
3. The branches of deciduous trees and shrubs may be selectively thinned by up to 1/3 at the time of planting to reduce stress from transplanting in accordance with good horticultural practice. In no case shall trimming result in reducing the overall height of the plant below that specified on the approved landscape plan.
4. All trees and shrubs shall be mulched with a minimum four (4") inch depth and all flower and groundcover beds shall be mulched with a minimum two (2") inch depth of shredded hardwood bark or other generally accepted commercial mulch.
5. Landscape materials shall be selected and located so as to avoid obstructing visual or physical access to fire hydrants. Trees shall not be located closer than ten (10') feet and shrubs shall not be located closer than five (5') feet to fire hydrants, transformers or other utility fixtures.
6. All trees and shrubs shall be located in such a way that they do not obstruct views of vehicles operators and pedestrians at intersections, alleys, driveways, parking lots and sidewalks.

(c) Maintenance.

1. Responsibility of Owner. The owner of any property, whether or not subject to an approved landscape plan required by this section, shall be responsible for the maintenance, repair, weeding, and replacement of all landscaping materials and barriers as may be required by this section. All plant materials shall be maintained in a healthy, vigorous growing condition, and a neat and orderly appearance. Plants shall be replaced as necessary, and shall be kept free of refuse, weeds and debris. Fences, walls, and other barriers, whether or not required by the landscape plan, shall be maintained in good condition and appearance. The owner shall control weeds in accordance with Chapters 11, 12 and 27, and with any subdivider's agreement applicable to the property.
[Am. 06-06; Eff. 6-9-06]
2. Noncompliance with Maintenance Standards. Property owners notified by the Village that their landscaping violates the provisions of this section shall be required to restore or replace said plant material within one growing season. Restoration or replacement of fences, walls and/or other barriers shall be completed within nine months of notice by the Village. If any violation is not corrected within the required period of time, the property owner shall be subject to the penalties set forth in sec. 15.03.

(7) PUBLIC RIGHT-OF-WAY LANDSCAPING REQUIREMENTS.

(a) Applicability. Where a parcel abuts a dedicated public right-of-way, landscaping shall be provided in accordance with this subsection. The requirements of this subsection are in addition to the minimum landscape points required elsewhere in this section and by the district regulations.

(b) Parkway Trees (or "Street Trees"):

1. Location. Trees shall be planted in the parkway along all streets no closer than ten (10) feet from any intersecting driveway or walkway, fire hydrant, back of street sign, or sewer or water lateral, twenty-five (25) feet from any streetlight, front of street sign, or right-of-way of an intersecting local street; and fifty (50) feet from the right-of-way of an intersecting arterial or collector street. Such distances may be reduced by the Director of Public Works if public safety and services are not compromised. Parkway trees shall be installed midway between the sidewalk (existing or planned) and the street curb, unless underground utility installations or other factors require the shifting of the trees within the width of the parkway.
2. Number. Parkway trees shall be planted such that the total number of trees shall equal or exceed the ratio of one (1) for each fifty (50) feet of street frontage.
3. Size, Species, and Layout. Parkway trees shall be two (2) inches in diameter at breast height, and selected with reference to the Village's Tree/Shrub Species Recommendations and Prohibitions List. Prior to installation, parkway tree species and layout shall be subject to the approval of the Director of Parks, Recreation, and Natural Resources or designee.
4. Replacement. All parkway trees shall be guaranteed and replaced if necessary during the first full year after planting.

[Am. 16-45, Eff. 11-24-16]

(c) Modifications and Exceptions: The Zoning Administrator may approve modifications and exceptions to the quantity, placement, and spacing of parkway trees, including their placement in other locations on the subject property, in the following circumstances:

1. The parkway is not wide enough to support tree growth.
2. The location of utilities under or above the parkway area would conflict with tree planting.
3. Traffic visibility would be unreasonably impaired.
4. If within the extraterritorial zoning jurisdiction, the associated Town Board has approved a motion or resolution indicating that the Town does not desire trees within parkway areas.

[Am. 13-001]

(8) MULTI-FAMILY RESIDENTIAL LANDSCAPING REQUIREMENTS. All multifamily residential sites shall comply with this subsection. The requirements of this subsection are in addition to the minimum landscape points required by the district regulations.

(a) All yards shall be seeded or sodded.

(b) All front and exterior side yards on corner lots shall contain a minimum of one (1) canopy tree per fifty (50) lineal feet of street frontage.

[Subd 1 repealed. 13-021, Eff. 10-10-13]

(c) All interior side and rear yards shall contain a mix of canopy, evergreen and other trees equivalent to at least one (1) per fifty (50') lineal feet, and including large shrubs along at least thirty (30%) percent of the interior side and rear property lines. Shrubs shall be spaced at no more than four (4') feet on center. The trees and shrubs may be clustered.

(9) NON RESIDENTIAL LANDSCAPING REQUIREMENTS. All non-residential sites shall comply with this subsection.

(a) All yards not covered by buildings, parking lots, or other hard surfaces shall be sodded, seeded or otherwise improved with some combination of turf, a native vegetative ground cover, or a decorative landscaping or erosion control feature.

(b) Foundation plantings shall be provided on those sides of a building that face a public right-of-way in a planting bed with a minimum width of five (5) feet adjacent to the entire building length, except where sidewalks and driveways leading directly into the building are provided for ingress and egress or where otherwise part of an approved site plan under §15.05.

[Am. 13-021, Eff. 10-10-13]

(c) Service yards, loading docks and exterior work areas on lots adjacent to non-industrial uses shall be screened from view from adjacent non-industrial properties and the public right-of-way, public lands, and public access easements. The screening shall consist of an opaque fence or wall constructed of commercial-grade wood; masonry; architectural-grade, decorative metal; or such other decorative material as may be part of an approved site plan under §15.05.

[Am. 13-021, Eff. 10-10-13; Am. 12-09, Eff. 5-24-12]

(d) Outdoor storage yards shall be screened from adjacent non-industrial properties and public rights-of-way, public lands, and public access easements by opaque walls or fences (including opaque doors or gates, if applicable) with a height at least equal to the height of material to be stored or eight (8) feet, whichever is less. Where stored materials exceed eight (8') feet in height, plantings shall be provided along the outside perimeter of all portions of the fence or wall visible from an adjacent property, public right-of-way or other public lands or access easements. The mature height of the plantings shall be not less than the height of the materials being screened, and fast growing species shall be used where practical.

[Am. 12-09, Eff. 5-24-12]

(e) Plans for parking areas shall include a description of snow removal methods and indicate snow storage areas. Plan shall provide sufficient detail to demonstrate that plantings will not be damaged or destroyed by snow removal and storage activities.

Table 15.06A: Minimum landscaping points required by zoning district.

Minimum Landscaping Points¹ (Add for total points required²)	Zoning District			
For Business Zoning Districts	B-1	B-2	B-3	A-B
per 100 Linear Ft. of Building Foundation	0	50	50	20
per 1,000 sq. ft. of Gross Floor Area	0	20	20	5
per 100 Linear Ft. of Street Frontage	0	50	50	20
per 10,000 sq. ft. of Paved Area or every 20 parking stalls ⁴	20	90	90	40
<hr/>				
For Industrial Zoning Districts	M-1	M-2	M-3	
per 100 Linear Ft. of Building Foundation ³	40	40	40	
per 1,000 sq. ft. of Gross Floor Area ³	20	20	20	
per 100 Linear Ft. of Street Frontage	40	40	40	
per 10,000 sq. ft. of Paved Area or every 20 parking stalls ⁴	70	70	70	
<hr/>				
For Other Non-Residential Zoning Districts	RM-B	O-R	REC	
per 100 Linear Ft. of Building Foundation	40	50	20	
per 1,000 sq. ft. of Gross Floor Area	20	20	5	
per 100 Linear Ft. of Street Frontage	40	50	20	
per 10,000 sq. ft. of Paved Area or every 20 parking stalls ⁴	70	90	40	

[Sub. (9) Am. 11-10; Eff. 4-15-11; Am. 15-036; Eff. 7-30-15]

Notes:

¹ Plantings required under this table may be used to meet other landscaping and screening requirements within this chapter, except that parkway tree requirements in Section 15.06(7) and parking lot screening where required under Section 15.06(10)(b) are in addition to the minimum landscaping points in this table.

² By approval of the applicable site plan approval authority, required landscaping points may be shifted between areas represented in this table (e.g., from paved areas to building foundations).

³ For every 100 lineal feet over 1,000 lineal feet, the landscape point requirement associated with building foundation length shall be reduced to 10 points per 100 lineal feet. For every 1,000 square feet over 50,000 sq. ft. of gross floor area, the landscape point requirement associated with gross floor area shall be reduced to 5 points per 1,000 sq. ft.

⁴ The greater of the two calculations shall be the required point standard.

(10) OFF STREET PARKING LOT LANDSCAPING REQUIREMENTS. All required off-street parking areas designed to accommodate four (4) or more vehicles in any zoning district shall be landscaped according to the standards in this subsection.

(a) All off-street vehicular parking areas shall be designed as provided in this paragraph (a) and in Section 15.07(2). Plantings required under Sections 15.06(8) or (9) may be used to satisfy the requirements of this paragraph (a).

1. Parking lot design shall employ interior, curbed landscaped islands or peninsulas at all parking aisle ends, with adjustments as necessary to accommodate

handicapped parking spaces. In addition, landscaped islands or peninsulas shall be provided within each parking aisle at intervals no greater than one island per every twenty (20) spaces in that aisle. Islands at the ends of aisles shall count toward this requirement.

2. Each landscaped island or peninsula shall contain a minimum of 125 square feet of landscaped surface area at the end of a single row of parking spaces and 250 square feet at the end of a double row.
3. Each landscaped island or peninsula shall contain one canopy or tall deciduous tree with a minimum diameter at breast height of 2 inches at the time of planting, unless in the determination of the site plan approval authority the tree would significantly interfere with site lighting, utilities, or traffic visibility. In such event, lower-level landscaping in the island shall be required.
4. Other than properties within industrial zoning districts, sites that provide greater than 150 parking stalls shall employ additional techniques to manage traffic and enhance aesthetics, with the techniques subject to the approval of the site plan approval authority. Such techniques may include but are not limited to locating parking to the rear of building, separating parking spaces into two or more distinct parking lots, and incorporating curbed landscaped medians in addition to islands and peninsulas.
5. The Planning and Zoning Commission (or Joint Committee in the ETZ area) may, through site plan approval under Section 15.05(2)(f), grant a waiver or modification to one or more requirements in this subsection (a), provided the Commission finds that traffic management and aesthetics will be adequately addressed by another technique(s), including but not limited to those listed under subparagraph (a)4.

[Am. 18-09, Eff. 6-15-18; Appl. to ETZ 18-17, Eff. 8-31-18]

(b) Parking Area Screening. Where any part of an off-street parking area designed for four (4) or more vehicles is located within 25 feet of a residentially zoned parcel, or is located such that a nearby residentially zoned property would be affected by noise or headlight glare, a screening barrier shall be provided on the parcel where the parking area is located. The effective height of the barrier shall be at least three and one-half (3½) feet above the parking surface. The barrier may consist of wood or masonry fencing, walls, berms, or plant material. Where plant materials are used for screening, they shall be in addition to the plantings required under Sections 15.06(8) or (9) and be of suitable size and density to accomplish the screening objective within three years from the time of planting.

[Am. 13-021, Eff. 10-10-13]

(11) MISCELLANEOUS LANDSCAPING REQUIREMENTS.

(a) Retention and Detention Ponds. Landscaping shall be provided around the perimeter of retention and detention ponds generally above the high water level. Only plants which are adapted to temporary flooding may be planted below high water level.

(b) Ground Level Air Conditioning Units and Mechanical Equipment. Ground level air conditioning units and other mechanical equipment shall be landscaped on all sides visible from the public right-of-way to a minimum height of thirty (30) inches. The plants used shall have a mature height which will meet or exceed the height of the equipment which it is screening.

(c) Ground Signs and Ground Lights. The area immediately surrounding the foundation of ground signs shall be planted with shrubs, groundcover, or perennial flowers. Plants shall be selected for a mature height which will not exceed the bottom of the sign's message. Ground lights for signs shall be screened from view from the public rights-of-way with evergreen shrubs or groundcover to a minimum height equal to that of the light(s).

(d) Refuse Receptacles. Refuse receptacles and waste removal areas shall be screened from view on the three sides most visible from public right-of-ways or adjacent properties. The screening shall consist of a solid fence constructed of masonry, or commercial-grade wood fencing materials and shall be a minimum of six (6') feet and a maximum of eight (8') feet tall. Shrubs and/or groundcover shall be planted along such screens to help soften their appearance. Refuse receptacles shall be enclosed on the fourth side with a gate to contain trash or other debris. The gate side of the waste receptacle shall be oriented toward the interior of the site.

(12) SUBSTITUTIONS AND CHANGES.

(a) Minor Revisions. Once a landscape plan has been approved and a building permit issued, minor revisions to the approved landscape plan, including the substitution of equivalent plantings and ground covers may be approved by the Zoning Administrator where such revisions do not diminish the benefits of the approved landscape plan. All such approvals shall be in writing and be accompanied by revised landscape plans. A revision shall be considered minor when there is no reduction in the quantity of plant material, no significant change in size or location of plant material, and substitute plants are of the same category (i.e., canopy trees, evergreen trees, large or small shrubs, groundcover, etc.) and have approximately the same design characteristics (mature size, spread, density) as the materials being replaced.

(b) Plan Amendment. Any amendments to the approved landscape plan other than those described in sub. (12)(a) shall be approved in the same manner, and in accordance with the same standards, upon which the original approval was given.

[Am. 13-021, Eff. 10-10-13]

(13) ACCEPTANCE OF LANDSCAPE IMPROVEMENTS.

(a) Inspection and Approval. Upon completion of the installation of landscaping on a development site, the Zoning Administrator shall inspect the site for conformance with the adopted landscape plan. Except as provided in par (b), the Zoning Administrator shall approve the installation prior to issuance of any certificate of occupancy required under Chapter 14.

(b) Exception. If inclement weather prohibits completion of the landscaping during a given planting season, prior to issuance of a certificate of occupancy, an applicant may post a bond or establish a cash escrow for the value of the outstanding plant material and cost of labor to install such landscaping. Such bond or escrow shall be held by the Village until such planting is completed to the satisfaction of the Zoning Administrator. In the event the required plantings are not completed within a reasonable time as determined by the Administrator, the Administrator shall cause the planting to be completed and draw on the escrow account to pay costs incurred in connection with such work. [Am. 13-021, Eff. 10-10-13]

15.065 LIGHTING PLANS AND STANDARDS.

[Cr. 06-06; Eff. 6-9-06]

(1) PURPOSE. The purpose of this section is to regulate the spill-over of light and glare on operators of motor vehicles, pedestrians, and land uses in the vicinity of a light source in order to promote traffic safety and prevent the creation of nuisances. A further purpose of this section is to regulate outdoor night lighting fixtures to preserve and enhance the area's dark sky while promoting safety, conserving energy and preserving the environment for astronomy.

(2) APPLICABILITY AND DEFINITIONS. The requirements of this section apply to all private exterior lighting within the jurisdiction of this chapter, except for lighting within public rights-of-way and/or lighting located on public property. For the purpose of this section, "exterior lighting" means an outdoor artificial illuminating device, whether permanent or portable, used for illumination or advertisement, including general lighting fixtures, searchlights, spotlights and floodlights, whether for architectural lighting, parking lot lighting, landscape lighting, signage or other purposes. "Shielded" means a fixture that is shielded in such a manner that light rays emitted by the fixture, either directly from the lamp or indirectly from the fixture, are projected at least fifteen degrees below a horizontal plane running through the lowest point on the fixture where light is emitted.

(3) DEPICTION ON OR WITH REQUIRED SITE PLAN: Any and all exterior lighting shall be depicted as to its location, orientation and configuration on or with any site plan required for the development of the subject property under §15.05.

(4) REQUIREMENTS.

(a) Orientation of Fixture. All exterior lighting shall be shielded, except for fixtures with light output equivalent to a 150 Watt incandescent fixture or less. No exterior lighting fixture of greater than 150 Watt incandescent equivalent output shall be oriented so that the lighting element (or a transparent shield) is visible from a property located within a residential zoning district other than from the property on which the fixture is located.

(b) Fixture Height. Except as provided in par. (j), the height of any light fixture shall not exceed 25 feet in any residential zoning district and 35 feet in any other zoning district.

(c) Intensity of Illumination and Filtering. Maximum average lighting levels within parking, circulation, and loading areas shall not exceed 2.5 footcandles within non-residential zoning districts and 1.5 footcandles within residential zoning districts. In no instance shall the amount of illumination attributable to exterior lighting, as measured at the property line, exceed 0.50 footcandles above ambient lighting conditions on a cloudless night. All metal halide fixtures shall be filtered by a translucent glass or acrylic enclosure. Quartz glass shall not be sufficient to satisfy this requirement.

(d) Flashing, Flickering and other Distracting Lighting. Flashing, flickering and/or other lighting which may distract motorists are prohibited. This paragraph shall not be construed to prohibit flashing bulbs in a seasonal decorative display provided that such bulbs do not exceed 5 Watts each.

(e) Minimum Lighting Standards. All areas designated on required site plans for customer vehicular parking, loading, or circulation and used for any such purpose after sunset shall provide artificial illumination in such areas at a minimum intensity of 0.2 footcandles. Private driveways

not intended for customer vehicular parking, loading, or circulation are exempt from this minimum lighting standard.

(f) Nonconforming Lighting. All lighting fixtures existing prior to June 9, 2006 shall be considered as legal conforming structures (see §15.17). All replacement fixtures shall fully comply with the requirements of this section.

(g) Display Lot Lighting. Display lot lighting shall be extinguished within thirty (30) minutes after closing of the business. Under no circumstances shall the illumination of display lots be permitted between 11:00 p.m. and 7:00 a.m. except that an average exterior lighting intensity for security purposes not exceeding 1.0 footcandle shall be permitted.

(h) Architectural Lighting. All architectural lighting shall be of 150 Watts or less if incandescent, and shall be of 70 Watts or less for other lighting sources. A minimum of 90 percent of the illumination from architectural lighting shall fall on the illuminated structure.

(i) Use of Mercury Vapor Fixtures. No new mercury vapor exterior lighting fixtures shall be installed.

(j) Special Exceptions. The site plan approval authority under §15.05(2) may grant exceptions to the requirements of §15.065(4) in one or more of the following circumstances:

1. For outdoor recreation use and assembly areas such as athletic fields.
2. Under gas station pump island canopies and for other intensive activity areas in which motor vehicles and pedestrians routinely operate in close proximity with one another. Use of recessed canopy lighting to minimize off-site impacts shall be required.
3. In cases where the applicant provides documentation to demonstrate that the overall lighting program being proposed provides a reasonable alternative approach to fully meeting the purpose of §15.065.

[Am. 13-021, Eff. 10-10-13; Am. 11-10; Eff. 4-15-11]

15.07 OFF-STREET PARKING, ACCESS, LOADING.

(1) **OFF-STREET PARKING REQUIRED.** Off street parking shall be provided within the various zoning districts as provided in this section. All required spaces shall be unobstructed and available for use for parking by employees, occupants, patrons or other invitees of the premises. The number of required parking spaces shall be determined as follows:

(a) **General.** The number of spaces provided shall not be less than that designated for a specified use as set forth in sub (4).

(b) **Computation.** When any calculation of the number of off-street parking spaces required by this section results in a fractional number, the result shall be rounded to the nearest whole number.

(c) **Collective Provisions.** Off-street parking facilities for separate uses may be provided collectively if the total number of spaces is not less than the sum of the separate requirements for each such use. Modification of total number of collective spaces serving mixed uses may be granted by the Village Board as part of approval of a Planned Unit Development or any part thereof.

(d) **Employee Parking.** Parking space requirements based on number of employees shall be calculated on the maximum total number of employees on duty or residing on the premises at any one time.

(e) **Maximum Residential Spaces.** The total number of accessory parking spaces provided for a single-family, duplex, or multiple-family dwelling shall be not more than 50% or four spaces, whichever is greater, more than the minimum number required.

(2) **DESIGN STANDARDS.** Each required parking space shall comply with the following standards:

(a) **Dimensions.** A required off-street parking space shall be at least nine (9') feet wide and at least eighteen (18') feet long, twenty-three (23) feet long for parallel spaces, exclusive of access drives or aisles, ramps, columns, or work areas and shall have a vertical clearance of at least seven (7') feet.

(b) **Access.** Minimum width of aisles providing access to stalls for one way traffic shall be sixteen (16) feet for ninety (90) degree parking, fourteen (14) feet for forty-five degree parking (angle shall be measured between centerline of parking space and centerline of aisle), and twelve (12) feet for parallel parking. Minimum width of aisles providing access to stalls for two way traffic shall be twenty-four (24) feet. No parking of more than two (2) spaces shall be designed as to require any vehicle to back into a public street.

[Am. 20-13, Eff. 5-15-20]

(c) **Surfacing.** All required off-street parking and traffic circulation areas shall be properly graded and paved with asphalt, concrete, pavers, or a similar hard surface, except that gravel or another all-weather, dustless material may be permitted within the ETZ Area if approved by the Joint Committee, for public park sites in which the approved park master plan advises a more rural finish, or for temporary parking associated with a temporary use permitted under §15.16(7). In no case shall any minimum required parking space be provided outside of hard-surfaced or graveled areas.
[Am. 11-10; Eff. 4-15-11; Am. 13-021, Eff. 10-10-13]

(d) Landscaping. All parking areas for four or more vehicles shall be landscaped and screened as provided in sec. 15.06.

[Am. 13-021, Eff. 10-10-13]

(e) Lighting. Any lighting used to illuminate off-street parking areas shall be directed away from residential properties and from public rights-of-way as not to interfere with the residential use or vehicular safety.

[Am. 13-021, Eff. 10-10-13]

(f) Location. All required parking spaces shall be located on the same lot as the building or use served, or on adjacent parcels within five hundred (500) feet of the main entrance to the use served, provided, however that:

1. No parking facilities for a business or industrial use shall be located in a residential zoning district.
2. In any case where required off-street parking is being provided on a different parcel than the use it is intended to serve and/or if two or more parcels share a common parking facility, and such parking in either case is necessary to satisfy the minimum parking requirements of this chapter, a joint parking agreement or easement defining the obligations of each party with respect to the use and maintenance of the parking facility shall be prepared by the applicant, approved by the Zoning Administrator, and executed and recorded against the off-site parcel(s) on which parking is being provided. Such recording shall occur with the Dane County Register of Deeds prior to the issuance of a certificate of occupancy permit. The easement or agreement shall include language that prohibits its termination or amendment without prior approval of the Village of DeForest to ensure that users on all affected parcels are able to maintain adequate parking to serve the specified uses and are able to legally access that parking.

[Am. 08-14; Eff. 5-16-08; Am. 13-021, Eff. 10-10-13]

(3) **LOADING FACILITIES.** Loading facilities as required by sub (4) shall comply with this subsection.

(a) Location. All required loading spaces or berths shall be located on the same lot as the use served. All loading berths, off-street access thereto and vehicles parked adjacent to them at any location which is adjacent to a residential district shall be completely screened therefrom as required by sec. 15.06. No permitted or required loading space or berth shall be located within forty (40') feet of the nearest point of intersection of any two streets or highways. No loading space or berth shall be located in a required front or side yard, and any loading space or berth located in a required rear yard shall be open to the sky.

(b) Calculation. Where the number of loading spaces required by sub. (4) is based upon the area of a building or parcel, the stated number of spaces shall be the minimum provided for each increment of area or any fraction thereof.

(c) Dimensions. Unless otherwise specified, a required off-street loading space or berth shall be ten (10') feet wide and at least forty-five (45') feet long, exclusive of aisles and maneuvering space and shall have a vertical clearance of at least fifteen (15') feet.

(d) Access. Each required off-street loading space or berth shall be design with appropriate means of vehicular access to a street, highway or alley in a manner which will least interfere with traffic movement.

(e) Surfacing. All open off-street loading spaces shall be improved with a compacted select gravel base, not less than seven inches thick, and surfaced with an all-weather, dustless material.

(f) Utilization. Space allocated for any off-street loading berth shall not be used to satisfy any requirement for off-street parking facilities.

(g) Facilities. Uses for which off-street loading facilities are required by this section but which are located in buildings that have a gross floor area of less than 1,000 square feet shall be exempt from the requirements of this subsection if the building is otherwise provided with adequate receiving facilities approved by the Planning and Zoning Commission or, for properties within the ETZ Area, by the Joint Committee, which are accessible by motor vehicle from any adjacent alley or service drive on the same lot.

(4) NUMBER OF SPACES REQUIRED.

(a) General. Except as provided in sub.(b), the required number of off-street parking and off-street loading spaces shall be as set forth in the following table:

[08-14; Eff. 5-16-08]

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED
RESIDENTIAL		
Single Family, or Townhouse Dwelling Unit	2 per Dwelling Unit	None
Multi-Family Dwelling Unit: Studio 1 Bedroom 2 Bedroom or more	None Required 2 per Dwelling Unit 2 per Dwelling Unit 2+ Bedroom - 2 per Dwelling Unit One parking space per unit must be located underground or below living quarters for buildings larger than four units.	None required for the first 25 units; thereafter, 1 space for every 100 dwelling units or fraction thereof per building.
Elderly Housing	1 per Dwelling unit plus 1 space for each employee at peak shift	None
Accessory Dwelling Unit	1 per Dwelling Unit	None

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED
Commercial Indoor Lodging	1 per Sleeping room or unit plus 1 space for each employee plus any spaces required for restaurant/lounge, banquet areas and meeting rooms	As required for restaurant/lounge square footage
Group, Congregate, Assisted Living, & Nursing Homes	1 per 6 patient beds plus 1 for each employee at peak shift	One
Child Day Care Center	One space per employee plus 0.1 space per person of licensed capacity.	None
Hospital	1 space per 3 beds plus 0.4 spaces per employee plus 1 space per 5 average daily out-patient visits plus 1 space per 10 emergency room treatments	1 per 100,000 sq ft GFA up to 500,000 sq ft plus 1 per 200,000 sq ft thereafter.
NON-RESIDENTIAL		
Indoor Retail Sales of Goods, Shopping Centers	4 per 1,000 sq ft of Gross Leasable Area (GLA)	1 per 50,000 sq ft GLA up to 100,000 plus 1 per 100,000 sq ft up to 500,000 sq ft plus 1 per 200,000 sq ft thereafter.
Service Retail	2.5 per 1,000 sq ft of GLA	Same as Indoor Retail Sales of Goods
Personal Services	2 per treatment station but not less than 4 per 1,000 square feet GFA	None
Motor Vehicle Sales	2.5 per 1000 sq ft of GFA plus interior sales space; 1.5 per 1000 sq ft of external display (does not include stock areas closed to the public)	Same as industrial

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED
Motor Vehicle Service	4 stalls per service bay plus 1 stall per each 500 sq ft exceeding 1,000 sq ft of indoor floor area.	Same as industrial
Mortuary or Funeral Parlor	7 spaces for each room used as a chapel plus one for each funeral vehicle.	One
Other Retail/Service Uses	As determined by the Zoning Administrator	Same as Indoor Retail Sales of Goods
Restaurant, Lounge or Bar	10 per 1,000 sq. ft. of Gross Floor Area (GFA)	With indoor seating area, one; with no seating, none
General Offices and Financial Institutions	3 per 1,000 sq ft of GFA	None for the first 30,000 sq ft; 1 per each 100,000 sq ft thereafter
Medical Offices	3 per medical staff employed	None
Industrial	1 per employee of peak shift plus 1 per vehicle operated by the business; plus 1 per 500 sq ft of office space designated as visitor parking	1 per 25,000 sq ft up to 50,000 sq ft; plus 1 for the next 50,000 sq ft plus 1 per 100,000 sq ft thereafter.
Storage/Wholesale/Utility	0.5 per 1,000 sq ft GFA plus any required spaces for office, sales, etc.	One for the first 50,000 sq ft GFA plus one space per 100,000 sq ft thereafter
Mini Warehouse	3 spaces at the office	None
Government	3 per 1000 sq ft of GFA (excluding garage space)	As determined by the Zoning Administrator
Elementary/Middle Schools	1.5 per classroom/teaching room plus 1 per employee	1 per 100,000 sq ft GFA

USE	PARKING SPACES REQUIRED	LOADING SPACES REQUIRED
Secondary/College	1 per employee plus 1 per four students of building design capacity	1 per 100,000. sq ft GFA
Public Assembly	.25 per person in permitted capacity	1 per 100,000 sq ft GFA
Campground or Other Outdoor Recreational	1 per campsite (including RV space) or per expected numer of patrons for other recreational use	None

(b) Deferred Improvement. The site plan approval authority under §15.05(2) may allow up to twenty-five percent (25%) of the parking spaces required for any business or professional use to remain unimproved and unavailable for parking, subject to the following conditions:

1. The applicant may be required to provide a parking demand analysis prepared by a qualified parking and traffic consultant substantiating the lack of a present need for the required number of spaces.
2. The approval authority may revoke the permission for deferral and require the property owner or his/her successor, to increase the number of paved parking spaces, up to the number required by this section. Such revocation shall be preceded by notice to the applicant and findings by the approval authority after a public hearing that:
 - a. The amount of vehicular traffic actually generated by the use located on the property is greater than the amount anticipated at the time of initial approval as evidenced by the original submissions made by the applicant;
 - b. The use of the property includes, or is proposed by the owner to include, a different or additional use from that proposed by the applicant at the time of approval.
 - c. The building(s) or use(s) on the property have been expanded or the number of vehicles parking on the property have increased since the initiation of the use.
 - d. The use of the property has resulted in an increase in traffic congestion or on-street parking in the vicinity of the property which would be eliminated or reduced if the remaining required off-street parking spaces were improved and made available.
3. A site plan application accompanying a request for deferred improvement of parking spaces shall include a detailed parking plan that shows both the full number of improved parking spaces required by this section as well as the parking spaces

proposed for deferred improvement, along with compatible landscaping treatments for the areas of the unimproved parking spaces.

4. The applicant shall file with the Village Zoning Administrator an unconditional agreement and covenant that areas reserved for future parking shall be maintained as landscaped open space according to the plan submitted, until and unless required to be improved and made available for off-street parking as provided in the site plan approval or pursuant to subpar. 2.
5. The agreement and covenant, shall be in recordable form approved by the Zoning Administrator and recorded with the Register of Deeds for Dane County, Wisconsin.
[Am. 13-021, Eff. 10-10-13]

(5) HANDICAPPED ACCESSIBLE PARKING REQUIREMENTS.

- (a) General. In any self-park facility, accessible parking spaces shall be set aside for wheel chair access in proportion to the total number of spaces provided as follows:

Total Spaces	Minimum Accessible Spaces
1 to 25	1
26 to 50	2
51 to 75	3
76 to 100	4
101 to 150	5
151 to 200	6
201 to 300	7
301 to 400	8
401 to 500	9
501 to 1000	2% of the total
1001 & over	20 plus 1% of the total over 1000 spaces

- (b) Notwithstanding par. (a) in parking facilities serving medical care facilities:

1. Not less than 10% of total spaces shall be accessible.
2. Not less than 20% of the total spaces shall be accessible at any facility specifically operated for treatment of the mobility impaired.

(c) Accessible Parking Space Defined. A parking space shall be deemed accessible only if it meets the following dimensional standards and all of the requirements of pars. (d) and (e) of this subsection:

1. Each space shall be at least sixteen feet (16') wide. One in every eight (8) accessible spaces, but not less than one, shall be served by an adjacent access aisle eight feet (8') wide minimum and shall be designated "van accessible" as provided in the applicable ADA guidelines. All other adjacent access aisles shall be five feet (5') wide minimum.
2. Along at least one aisle to and from each accessible space a minimum vertical clearance of eight feet two inches (8' 2") is provided.

(d) Location of Accessible Spaces

1. Accessible parking spaces shall be located on the shortest accessible route of travel to an accessible entrance to the building served.
2. Accessible parking spaces need not be provided in each parking structure serving a specific property if equivalent or greater accessibility in terms of distance from an accessible entrance is provided through other accessible spaces serving the same building.
3. Accessible parking spaces may be provided on a single level of a multi-level parking structure.

(e) Accessible Route.

1. At least one accessible route with a continuous minimum lateral clearance of thirty-six (36") inches shall be provided from accessible parking spaces to the nearest accessible pedestrian entrance.
2. If an accessible route has less than sixty (60") inches clear width, passing spaces at least 60 inches by 60 inches shall be located at reasonable intervals not to exceed every 200 feet.
3. The floor slope along an accessible route shall not exceed 1:12 with a maximum rise of thirty (30") inches for any run.
4. A level landing shall be provided at the bottom and top of each ramp run. The width of the landing shall be at least as wide as the ramp run and at least sixty (60") inches long. At changes in direction a 60 inch by 60 inch landing shall be provided.
5. The cross slope of ramps shall not exceed 1:50.
6. The floor slope at loading zones shall not exceed 1:50.
7. Whenever practicable, an accessible route shall be provided at the front of parking stalls and shall not cross lanes of vehicular travel. When crossing vehicular travel lanes is necessary, the route of travel shall be designated and clearly marked by a crosswalk.

(6) MODIFICATIONS TO OFF-STREET PARKING REQUIREMENTS.

(a) The approval authority may, as part of its approval of a site plan, planned unit development or conditional use permit, grant a complete or partial waiver of off-street parking requirements for uses within the Business zoning districts to the extent that public off-street parking is available and sufficient to satisfy the demand for parking created by such use.

(b) As part of its approval of a site plan, conditional use permit, or planned unit development, the approval authority may allow for modifications from the parking standards established by this section where, as evidenced by acceptable parking studies, such a modification is in the best interest of the development and will not create parking, circulation or traffic congestion problems for existing or potential uses of other properties. In such cases, the approval authority may require a plan and provisions for deferred improvement of parking spaces per §15.07(4)(b).

(c) As part of its approval of a site plan, conditional use permit, or planned unit development for a commercial service or retail development project within an area demonstrated to experience heavy tourist traffic and/or trucking activity, the approval authority may require that up to five (5) of the required parking spaces under this section be sized to accommodate recreational vehicles, passenger trucks with trailing campers or boats, and/or semi-truck/trailer combinations.

[Am. 13-021, Eff. 10-10-13]

(7) DRIVEWAYS, ACCESS CONTROL, AND VEHICULAR SIGHT DISTANCE.

(a) Driveway Access Location Approval. The location of all private driveway access points onto public streets shall be approved by the Zoning Administrator, or as part of an approved site plan if one is required under §15.05. No new or expanded driveway shall access a public street (including but not limited to a cul-de-sac bulb) in such a manner that, in the opinion of the Zoning Administrator, would inhibit the efficient storage of plowed snow, other required municipal functions in the public right-of-way, or safe access to and from the public street.

[Am. 16-24, Eff. 8-26-16; ETZ Burke 16-36, Eff. 10-7-16]

(b) Maximum Number of Vehicular Access Points Per Lot. There shall be only one driveway access onto a public street for each lot in the RH-1, RE-1, RE-2, RN-1, RN-2, RN-2A, and RM-6 residential districts. Within all other zoning districts, a maximum of one vehicular access point per lot shall be permitted to each abutting arterial or collector street for each 300 feet of frontage on such street. The number of access points prescribed under this subsection (b) may be altered for a particular site by conditional use permit.

[Am. 16-24, Eff. 8-26-16; ETZ Burke 16-36, Eff. 10-7-16]

(c) Spacing Between Driveways and Lot Lines. Within the B-2, B-3, and industrial zoning districts, all driveways shall be located at least four (4) feet from all lot lines. In all other zoning districts, all driveways shall be at least two (2) feet from such lot lines. The minimum spacing in this paragraph may be reduced in one or both of the following instances:

1. Where lesser or no distances are required to allow safe access to the public street in the determination of the Zoning Administrator.
2. Where a shared driveway or cross access driveway is included on an approved site plan under §15.05, or for a single or two-family residential use where approved by the Zoning Administrator. [Am. 16-24, Eff. 8-26-16; ETZ Burke 16-36, Eff. 10-7-16]

(d) Minimum Spacing Between Vehicular Access Points. Along arterial and collector streets, there shall be not less than the following minimum distance between the centerlines of vehicular access points on the same side of the street:

1. 100 feet where the speed limit on the abutting street is less than 40 m.p.h., or
2. 200 feet where speed limit on the abutting street is 40 m.p.h. or greater, except where such spacing is impractical due to preexisting development patterns.

(e) Access Points Near Arterial and Collector Street Intersections and Roundabouts.

1. No new direct vehicular access shall be permitted from private land directly to an arterial or collector street within 200 feet of the intersection of the right-of-way lines between such street and another arterial or collector street, except where subsection 2 requires a different spacing.
2. The Zoning Administrator shall determine where direct vehicular access points shall be permitted onto a public street near a roundabout intersection, based on Village design guidelines, standard specifications, and/or factors including roundabout design, signage, intensity of adjacent land uses, traffic volumes, and number of access points requested.

[Am. 16-24, Eff. 8-26-16; ETZ Burke 16-36, Eff. 10-7-16]

(f) Access Points Across the Street From One Another. Local streets and private access points along both sides of an intersecting arterial or collector street shall be aligned directly across the street from one another, or placed no less than 150 feet apart from one another if an alignment directly across the street is not practical in the determination of the Zoning Administrator.

[Am. 16-24, Eff. 8-26-16; ETZ Burke 16-36, Eff. 10-7-16]

(g) Minimum Sight Distance at Access Points. Along arterial and collector streets, private access points shall be located and designed in such a manner to ensure driver sight distance in both directions along the intersecting street a minimum distance of 300 feet or, if the speed limit on the abutting street is less than 40 m.p.h., 200 feet.

[Am. 16-24, Eff. 8-26-16; ETZ Burke 16-36, Eff. 10-7-16]

(h) Maximum Driveway Widths. Maximum driveway openings at lot lines and curb lines are as provided in Tables 15.10B, 15.11B, and 15.12B, except that the Planning and Zoning Commission or appropriate Joint Committee if in the ETZ Area may approve a driveway of greater width as part of an approved site plan under §15.05 if the applicant can demonstrate the need via engineering or turning radius exhibits.

(i) Driveway Approach Surfacing.

1. Except in the A-1X, A-1, A-2, or RH-1 districts and whenever connecting to streets with a rural cross section, all approaches for new driveways, between the road edge or back of curb and the right-of-way line, shall be surfaced with concrete. Where new driveways are constructed in the A-1X, A-1, A-2, or RH-1 districts or where new driveways adjoin streets with a rural cross section, the apron areas shall be hard-surfaced if within the Village and surfaced in accordance with Town driveway regulations if within the ETZ Area. All hard-surfacing shall be complete

prior to the issuance of a certificate of occupancy unless otherwise approved in writing by the Zoning Administrator. The Administrator may allow driveway approach construction to be delayed to the following spring if weather conditions do not permit hard-surfacing in the current year. In the case of the resurfacing or reconstruction of existing driveways within the Village, the approach may be bituminous pavement or other hard-surfacing if the former driveway approach was a non-concrete surface or if the approach adjoins a street with a rural cross section.

2. Where concrete approaches are required per paragraph 1. above, residential driveway approaches shall be constructed with a minimum of six (6) inches of concrete over a minimum of four (4) inches of compacted crushed limestone or with a minimum of two and one half (2 ½) inches of bituminous surface material or concrete over a minimum of six (6) inches of compacted crushed stone. All measurements are after compaction.
3. Where concrete approaches are required per paragraph 1. above, non-residential driveway approaches shall consist of a minimum of eight (8) inches poured concrete over a minimum of four (4) inches compacted crushed stone. Measurements are after compaction.

(j) Maximum Driveway Slope. The slope, measured at any point between the property line and garage entrance, shall not exceed twelve percent (12%).

[Sub. (7) Cr. 11-10; Eff. 4-15-11; Am. 13-021, Eff. 10-10-13]

15.08 SIGN PERMITS.

[Recr. 08-27; Eff. 8-22-08; Am. 16-08; Eff. 4-29-16]

(1) PURPOSE. The purpose of this section is to establish standards for the fabrication, erection, and use of signs for all properties within the Village of DeForest and the ETZ Area. This section regulates the location, type, size, and height of signage based on the finding that such regulation furthers the following compelling governmental interests, while still being narrowly defined so as to limit any prohibitions on commercial speech on exterior signage:

(a) To promote the public welfare, health, and safety of all persons using the public thoroughfares and right-of-ways as to the signage displayed thereon, or overhanging, or projecting into such public spaces;

(b) To advance aesthetic goals throughout the community, and to ensure the effectiveness and flexibility in the design of, and the creativity of, the use of such devices without creating detriment to the general public;

(c) To aid in the proper development and promotion of business and industry;

(d) To recognize that different zoning districts and different geographic areas of the community have different characteristics, and that sign regulations should vary based in part on those differences;

(e) To implement the community vision, goals and objectives, and signage recommendations contained within the Comprehensive Plan.

(2) SIGN PERMITTING AND APPROVAL PROCESS.

[Am. 18-15. Eff. 8-17-18; Appl. to ETZ 18-17, Eff. 8-31-18]

(a) General Requirements. Except as otherwise provided in §15.08(2)(i), no sign shall hereafter be located, erected, moved, reconstructed, extended, enlarged, converted, or structurally altered without a sign permit. This section shall apply and be construed to require a permit for a change of copy on any sign or for any conversions or changes in the sign structure. This section shall not apply to repainting with the same sign copy, cleaning, repair, or other normal maintenance of the sign or sign structure. No new permit is required for signs which are in place as of the date of the adoption of this section and which no permit was previously issued, and such signs may remain as legal nonconforming structures. Any alteration or relocation of such signs shall conform with the requirements of this section.

(b) Permit Requirements. Any sign permit granted hereunder may not be assigned or transferred to any other sign or modified sign face or sign structure.

1. Only those permanent or temporary signs which have been granted a permit from the Zoning Administrator in accordance with the provisions of this section may be erected, installed, constructed or maintained, except those signs specifically exempted from permit requirements in §15.08(2)(i), below.
2. The owner or tenant may include all such signs at one premise under one permit.

(c) Application Procedure. Each initial application for a sign permit shall be filed with the Zoning Administrator on a form provided by that office, prior to installation of a new sign or modification of an existing sign face or sign structure. Each application shall include:

1. The name and address of the permit applicant.
2. The approved site plan for the subject property, per §15.05, or if not previously approved, a site plan for the subject property showing, at a minimum, the location of the proposed sign; the location of all existing signs on the subject property; all property lines and buildings in the subject property; and parking areas, driveways, public roads, and buildings within fifty (50) feet of the proposed sign.
3. A diagram of the proposed sign, drawn to a recognized scale, and listing and depicting the height, width, total square footage and square footage of each sign component, method of attachment, structural support, method of illumination, and sign materials.
4. The subject property's zoning designation.
5. A summary of existing signage on the property, including quantity, location, type, and area of all signs on the subject property both before and after the installation of the proposed sign.
6. Proof of payment of the appropriate sign permit fee, as established from time to time by the Village Board.
7. Any other item of information that may be reasonably required by the Zoning Administrator for the purpose of application evaluation.

(d) Granting and Issuance.

1. The Zoning Administrator shall review the submitted application for compliance with the requirements of §15.08(2)(c). The application shall not be considered complete until all of the requirements of §15.08(2)(c) are satisfied.
2. Upon the receipt of a complete application, in cases where the requested sign does not require an approval or recommendation from another body under another requirement of this chapter, the Zoning Administrator shall review said application for compliance with the requirements of the remainder of this section, and shall, in writing, approve or deny a sign permit based on the submitted application within ten (10) working days of the acceptance of the complete application and payment of the required fee.
3. Upon the receipt of a complete application, and in cases where the requested sign requires an approval or recommendation from another body under another requirement of this chapter, such as a special exception or site plan approval, the Zoning Administrator shall review said application for compliance with the requirements of the remainder of this section, and shall within ten (10) working days of the acceptance of the complete application and payment of the required fee notify the applicant of such additional recommendation or approval and schedule the item on appropriate meeting agenda(s). Following all necessary approvals, the Zoning Administrator shall then, in writing, approve or deny a sign permit based on the submitted application and such additional body's recommendation or action within ten (10) working days of action by the final body with approval or recommending authority.

[Am. 18-15. Eff. 8-17-18; Appl. to ETZ 18-17, Eff. 8-31-18]

4. Denial of a sign permit shall not result in total or partial reimbursement of permit fees paid.

(e) Basis for Granting. In deciding whether or not to grant a sign permit, the Zoning Administrator shall determine whether the proposed sign is in compliance with the provisions of this section; whether the sign is in compliance with all provisions of the DeForest Municipal Code, including those related to traffic safety, traffic visibility, sign setbacks, and structural integrity; whether any required special exception, site plan approval, or other Village approval has been granted for the sign and, to the extent not in conflict with any of the above factors, the recommendation of any other local governmental body or interested party.

[Am. 18-15. Eff. 8-17-18; Appl. to ETZ 18-17, Eff. 8-31-18]

(f) Enforcement and Revocation.

1. Upon Class I notice and after a public hearing conducted by the Planning and Zoning Commission, any permit may be revoked by the Planning and Zoning Commission in the event that the applicant has failed to comply with the provisions of this section or any conditions that may have accompanied the permit at the time of granting.
2. Any sign permit granted by the Zoning Administrator shall be null and void and automatically revoked in the event that construction, installation, or manufacture of the sign has not been commenced within 180 days from the date of the issuance of such permit. If work authorized by such permit is suspended or abandoned for a period of 90 days any time after the work is commenced, the original permit shall become null and void. A new permit shall first be obtained to complete the work, and a new permit fee shall be required.
3. The sign(s) subject to any revoked permits shall be removed by the licensee, sign owner, or property owner within 45 days of such revocation.
4. Revocation shall not result in total or partial reimbursement of permit fees paid.

(g) Appeals. Any person affected by a decision of the Zoning Administrator may petition for a hearing before the Board of Zoning Appeals under the provisions of §15.03(5). The filing of such petition automatically stays removal of any sign involved and already legally erected until the Board of Zoning Appeals decides whether to sustain, modify or withdraw the notice.

(h) Removal of Defective or Dangerous Signs by the Village.

1. If the Zoning Administrator determines that any sign exists in violation of this section, then the Zoning Administrator shall notify the sign permit holder or the owner of the property on which the sign is located that such violation must be corrected within ten (10) days of receipt of such notice on penalty of automatic revocation of any sign permit previously granted and summary removal of the sign by the Village at the expense of the owner of the property.
2. If the Zoning Administrator causes such notice to be sent and the violation is not corrected within ten (10) days, the Zoning Administrator shall revoke any sign permit for the defective or dangerous sign and it shall be the duty of the Zoning Administrator to remove such sign. The expense of removing such sign shall be charged to the owner of the property on which the sign is located. If the owner

fails to pay such expense within one (1) month of being billed therefore, or has not made arrangement for payment satisfactory to the Village Attorney, then such expense shall become a lien on the property and shall be placed upon the tax roll.

(i) Signs Allowed without Permit. The following signs are permitted in all zoning districts without the need for a sign permit. Such signs shall not count as part of the maximum permitted number of signs on a property in the zoning district in which they are located. The title for each of the following categories is neither a requirement nor restriction on the content of any sign.

1. Addresses. Address numerals and other sign information required to identify a location by law or governmental order, rule or regulation provided that such sign does not exceed one (1) square foot in area per officially assigned address, or the size required by any law, order, rule or regulation, whichever is greater.
2. Interior Signs. Signs which are located on the interior of a premise and which are primarily oriented to persons within that premises.
3. Regulatory and Government Signs. Signs erected by or on behalf of a duly constituted governmental body on public right of ways, parks and other public property.
4. Signs on Residential Properties. Signs on residential properties, with a maximum number of two (2) signs not exceeding an area total of twelve (12) square feet, for each residential unit on said property. A residential unit is a single family home, a townhome, an assisted living unit, a condominium unit, or an apartment unit.

During the time period commencing four (4) months prior to any public election for any local, state or federal office, or any vote on any public referendum, and ending two weeks after said election or referendum vote, the maximum number of signs is increased to six (6) signs not exceeding an area total of thirty-six (36) square feet, with no individual sign being of greater size than twelve (12) square feet, for each residential unit on said property.

Notwithstanding the foregoing, for multi-unit residential properties with more than four (4) residential units, the maximum number of signs and sign area permitted in this paragraph (i)(4) is the same as those permitted for a four (4) unit residential property.

Other permitted signs in this subsection (i) shall not count against the number of signs permitted under this paragraph (i)(4). All signs that exceed the number and area requirements in this subsection (i)(4) shall be subject to sign permit requirements and other number, area, and other requirements associated with signs requiring a permit. Nothing in this section shall be interpreted to prohibit or limit any sign that is otherwise permitted under §12.04, Wis. Stats.

[Am. 16-45, Eff. 11-24-16]

5. Signs on Non-Residential Properties. Signs on non-residential properties, with a maximum number of two (2) signs not exceeding an area total of twelve (12) square feet per property. During the time period commencing four (4) months prior to any public election for any local, state or federal office, or any vote on any public referendum, and ending two weeks after said election or referendum vote, the maximum number of signs is increased to six (6) signs not exceeding an area total of thirty-six (36) square feet, with no individual sign being of greater size than

twelve (12) square feet, on each property. Other permitted signs in this subsection (i) shall not count against the number of signs permitted under this paragraph (i)(5). All signs that exceed the number and area requirements in this subsection (i)(5) shall be subject to sign permit requirements and other number, area, and other requirements associated with signs requiring a permit.

6. Required Signs. Signs required by state or federal statute or regulation which do not exceed 110% of the minimum legal size requirements.
7. Sandwich Board. Only within zoning districts specified under §15.08(6)(b)(1), and subject to the requirements of §15.08(6)(b)(1)b.iii.
8. Window signs. Signs affixed to the inside of a window, provided that the total of all signs in the window area, including temporary and permanently mounted signs, does not exceed twenty-five (25) percent of the area of any one window.

(j) Special Exceptions.

1. Applicability and Procedure. Following submittal of a complete special exception application, the Planning and Zoning Commission (or Joint Committee if in the ETZ Area) may grant a special exception to the requirements for signs serving subdivisions and institutional uses in §15.08(5) and within non-residential zoning districts in §15.08(6), as provided in this section. The procedure for granting or denying a special exception shall be the same as the procedure for conditional use permits under §15.16(3).
2. Criteria. No special exception shall be granted unless the Commission or Committee finds that the sign(s) authorized thereby, as limited by any enforceable conditions, will meet all of the following criteria:
 - a. Will be consistent with the purpose and intent of this chapter and this section.
 - b. Will be consistent with the Comprehensive Plan including any applicable aesthetic signage guidelines therein.
 - c. Will not negatively affect the reasonable use and development of nearby properties or the community.
 - d. Will be compatible with existing signage visible from the subject site and shall not significantly exceed the height, area, or quantity of such existing signage.
 - e. Will not be hazardous, harmful, or otherwise adverse to the natural environment and aesthetic value of the site, nearby properties, and the community.
 - f. Will not negatively affect the safe and efficient installation, use, and maintenance of public facilities serving the area, including but not limited to roadways, sidewalks and paths, and utilities.
 - g. Is supported by evidence that normally applicable requirements do not provide for sufficient visibility for the proposed signage or use(s) it advertises, such as

a highway visibility study for freestanding signage that exceeds normally applicable height or area requirements.

[Cr. 18-15. Eff. 8-17-18; Appl. to ETZ 18-17, Eff. 8-31-18]

(3) GENERAL SIGNAGE STANDARDS. The following standards and terms shall be used in this section to assist in the establishment of clear signage regulations. The general definition of a sign is as provided in §15.02(83).

(a) Advertising and Business signs.

1. Off-Premise Advertising sign. A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, or offered elsewhere than upon the premises where the sign is displayed. No new off-premise advertising signs and no new billboard signs shall be allowed or permitted except as provided in sec. 15.08(7).
2. On-Premise Business sign. A sign which directs attention to a business, commodity, service, or entertainment conducted, sold, offered, or manufactured upon the premises where the sign is located.

(b) Sign Configurations.

1. Advertising vehicle sign. A vehicle or trailer parked on public rights-of-way or on private property so as to be seen from a public right-of-way, which attached to or located thereon is any sign or advertising device for the basic purpose of providing advertisement of products or directing people to a business activity located on the same or nearby property or any other premise. Business vehicles which contain typical business signage and which are actively used for business purposes are not considered advertising vehicle signs.
[Am. 16-45, Eff. 11-24-16]
2. Arm/post sign. A type of small scale freestanding sign mounted on a post or posts, either with a bracket extending outward to support a hanging sign, with the sign attached directly to the side of the post, or with the sign mounted between two posts.
3. Awning sign. A sign mounted to an awning or canopy which is mounted to the facade of a building, shall be counted as a projecting sign for purposes of determining allowable numbers or types of signs, shall be limited to twelve (12) inch tall script, and shall not exceed ten (10) percent of the awning/canopy area.
4. Freestanding sign. A self-supporting sign resting on or supported by means of poles, standards, or any other type of base on the ground. This type of sign includes arm/post signs, monument signs, and pylon signs. The sign shall not be erected so that it impedes visibility for safe pedestrian and/or vehicular circulation. The base or support(s) of freestanding signs shall be securely anchored to a concrete base or footing, except for public and institutional street and directional signs installed in public rights-of-way. The footing and related supporting structure of a freestanding sign including bolts, flanges, and brackets shall be concealed by the sign exterior and shall be landscaped per §15.06(11)(c).

5. Marquee sign. A type of sign that is often, but not necessarily, a projecting, on-building sign sheltering the entrance and/or entrance approaches of a theater, auditorium, fairground, museum or other use, and may include only manually changeable letters or messages. For the purposes of this chapter, all non-electronic/non-digital signs with manually changeable letters or messages shall be considered marquee signs.
[Am. 12-09, Eff. 5-24-12]
 6. Mobile sign. A sign mounted on a frame or chassis designed to be easily relocated, including vehicles and/or trailers.
 7. Monument sign. A type of freestanding sign with a bottom edge located within one foot of a ground-mounted pedestal.
 8. On-building sign. A type of sign permanently affixed to an outside wall of a building.
 9. Projecting sign. A type of on-building sign, other than a wall sign, which is attached directly to a building facade, is not greater than twelve (12) square feet in area, and projects not more than four (4) feet from a building facade.
 10. Pylon sign. A type of freestanding sign erected upon one or more pylon, pole, or post, general of a scale that is larger than an arm/post sign.
 11. Sandwich board sign. A sign designed to be a self-supporting by means of an easel construction, displayed on a hard-surfaced area of the ground, and removable on a daily basis.
 12. Wall sign. A type of on-building sign mounted parallel to and directly on a building facade or other vertical building surface. Wall signs shall not project more than eighteen (18) inches beyond the edge of any wall or other surface to which they are mounted. The top of the sign shall extend no higher than the roof above the nearest portion of the building to which it is mounted.
 13. Window sign. A type of sign mounted on or within an exterior window and visible from the exterior.
 14. Variable message sign (VMS). An electronic or digital sign which displays words, lines, logos, graphic images, or symbols that can change automatically to provide different information, and which includes computer signs, LCD and other video display signs, and time and temperature signs.
- [Am. 12-09, Eff. 5-24-12]

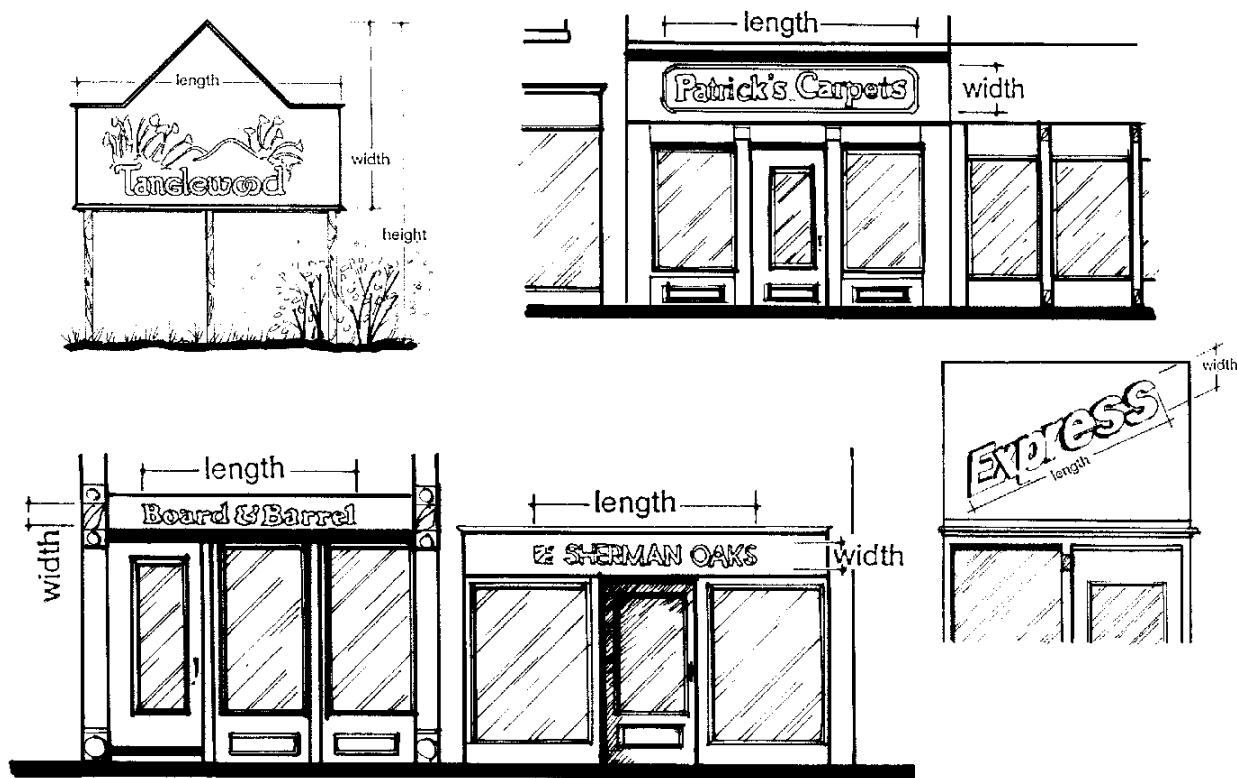
(c) Sign Measurement.

1. Sign height. The height of a freestanding sign shall be measured from the average ground level adjacent to the sign to the top of the sign or from the centerline grade of the nearest adjacent public road, if such information is supplied with the permit application and confirmed by the Zoning Administrator, whichever is higher. The average ground level is defined as the average elevation of the ground upon which the sign supports are placed, except when the sign supports rest upon a berm or other area elevated above the surrounding ground. In such cases, the average elevation of the base of such berm or other area shall be considered as the ground level.

2. Sign area. Sign area shall be measured in the following manner and as depicted in Figure 15.08A:

- a. In the case of a sign placed within a frame, a marquee sign, or other structure, sign area consists of the entire surface area of the sign on which copy could be placed. The supporting structure or bracing of a sign, including the supports of monument signs not used for copy, shall not be counted as a part of the sign face area unless such structure or bracing is made a part of the sign's message. Where a freestanding sign (monument or pylon) has two or more display faces, the total area of all of the display faces which can be viewed from any single location shall be considered the sign area.
- b. In the case of a sign on which the message is fabricated together with the background which borders or frames that message, sign area shall be the total area of the entire background.
- c. In the case of a sign on which message is applied to a background which provides no border or frame (such as individual letters to a building face or awning), sign area shall be the combined areas of the smallest rectangles which can encompass each word, letter, figure, emblem, and other element of the sign message.

Figure 15.08A: Measurement of Sign Area



(4) GENERAL SIGNAGE REGULATIONS. The regulations contained in this subsection apply to all signs in all zoning districts, including both signs requiring a permit and signs allowed without a permit.

(a) Sign Prohibitions and Limitations.

1. No sign shall be erected at any location where it may, by reason of its position, shape, color or design, interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device, nor shall such sign make use of words such as "stop", "look", "drive-in", "danger", or any other word, phrase, symbol, or character in such manner as to interfere with, mislead or confuse users of streets or highways.
2. No sign shall be erected, relocated, or maintained so as to prevent free ingress to or egress from any door, window, or fire escape, and no sign shall be attached to a standpipe-or fire escape.
3. No private sign shall be attached to or painted on any natural feature (e.g. tree or rock), fence, public utility pole, public light pole or traffic regulatory structure.
4. No undulating, swinging, rotating, or otherwise moving signs shall be allowed or permitted; however, flags, pennants and feather banners are permitted.
5. No illuminated flashing signs shall be allowed or permitted. Variable message signs meeting the definition and requirements of this section shall not be considered illuminated flashing signs.
6. No sign, other than a government erected sign, shall be allowed or permitted within or extending into a public right-of-way, except as follows:
 - i. Projecting and awning signs in the B-1 Central Business District or RM-B Residential Mix-Business District as long as traffic movement is not affected; or,
 - ii. As provided in §15.08(4)(b)3.
7. No illuminated sign shall be allowed or permitted unless the illumination of the sign is so designed that the lighting element (except for neon signs) is not visible from any property within a residential zoning district.
8. No mobile signs shall be allowed or permitted.
9. No inflatable signs shall be allowed or permitted.
10. No advertising vehicle signs shall be allowed or permitted.
11. No off-premise advertising signs shall be allowed or permitted, except as provided in §15.08(7). Existing legal off-premise advertising signs made nonconforming by this section shall be permitted to continue as legal, nonconforming structures, subject to the requirements of §15.17. This prohibition leaves ample and adequate channels of commercial speech communication for the messages typically

portrayed on such advertising signage—including but not limited to print media, broadcast media, and point-of-purchase display.

12. Window obstruction by interior signs shall not exceed more than twenty-five (25) percent for any one window.

(b) Sign Location Requirements.

1. No sign shall be erected or maintained at any location where by reason of its position, wording, illumination, size, shape, or color it may obstruct, impair, obscure, interfere with the view of, or be confused with, any authorized traffic control sign, signal or device. Freestanding signs may not locate within required vision corners under §15.04(13)(d) or Chapter 13, nor otherwise impede traffic or pedestrian visibility.
[Am. 12-09, Eff. 5-24-12]
2. No sign shall be mounted or displayed on, or extend above the roof, if attached to the building, except as permitted in §15.08(8)(g). [Am. 15-42; Eff. 8-20-15]
3. Temporary private signs shall be allowed within public road right-of-way lines only by approval of the Zoning Administrator, in consideration of the advice of the Director of Public Works and the appropriate Village, Town, County, and State authorities, and based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations within the right-of-way.
[Am. 13-021, Eff. 10-10-13]
4. Signs less than three (3) feet tall shall be located a minimum of one foot from a property line. The permitted locations of all other freestanding signs shall be as otherwise indicated in this section.
5. All pylon and projecting signs shall have a minimum clearance from grade of ten (10) feet to the bottom of the sign and shall not project into any vehicle circulation area, beyond any public street curb line, or beyond any public street pavement edge if no curb is present.
[Am. 13-021, Eff. 10-10-13]

(c) Variable Message Signs (VMS). VMS are allowed by permit only. [Am. 15-42; Eff. 8-20-15]

1. Length of Cycle. The total length of the scrolling time from start to finish of message of a VMS shall not be shorter than three (3) seconds nor longer than ten (10) seconds. Items of information may not be repeated at intervals that are short enough to cause a VMS to have the effect of a flashing sign.
2. Brightness Adjustment. All VMS shall be equipped with and shall utilize photosensitive equipment which automatically adjusts the brightness and contrast of the sign in direct relation to the ambient outdoor illumination. Illumination levels shall not exceed those permitted under §15.065(4)(c).
3. Included Area. The illuminated or message display area of the VMS is subject to the same height and area requirements as other permitted business signs in the zoning district. All VMS shall be included in the calculation of total permitted sign area for the type of business sign (e.g., wall, freestanding) and the zoning district in which the sign is located.

4. Maintenance. All VMS shall be maintained so as to be able to display messages in a complete and legible manner.
5. Location. Except by special exception under §15.08(2)(j), no VMS shall be allowed within any agricultural or C-1 zoning district; on any residential lot regardless of zoning district; or positioned to be visible and within 100 feet from any permitted residential building if located within the B-1 Central Business District or 200 feet in any other district.

[Am. 18-15. Eff. 8-17-18; Appl. to ETZ 18-17, Eff. 8-31-18]

(d) Window Signs.

1. Area. The total of all signs in the window area, including temporary and permanently mounted signs, shall not exceed twenty-five (25) percent of the area of each window.
2. Installation. Window signs shall be confined within the transparent glazed area of the window and shall not encroach upon the frame, mullions, or other supporting features of the glass. All permanent window signs that have their lettering or graphic elements directly on the glazing shall be painted, metal leafed, vinyl transferred, or in some other manner permanently applied to the exterior building window or door.
3. Maintenance. All window signs shall be maintained so as to be able to display messages in a complete and legible manner.
4. Location. No window signs shall be allowed within residential zoning districts.

(5) REGULATIONS FOR RESIDENTIAL DISTRICTS. In residential zoning districts listed in §15.09(1) except for the RM-B district, signage shall be permitted per the requirements of §15.08(1) to §15.08(4), §15.08(8) to §15.08(10), and the following:

(a) Main Sign.

1. For one-family and two-family dwelling:
 - a. Permitted Sign Type: Wall Sign.
 - b. Maximum Permitted Number per Lot: One.
 - c. Maximum Permitted Area per Sign: Two square feet.
2. For single multiple-family dwelling of three or more units on a lot:
 - a. Permitted Sign Type: Wall Sign or Monument Sign.
 - b. Maximum Permitted Number per Lot: One monument or one wall.
 - c. Maximum Permitted Area per Sign: Twelve square feet.

3. For multi-building residential development, subdivision, or institutional use:
 - a. Permitted Sign Type: Wall Sign or Monument Sign.
 - b. Maximum Permitted Number: One per public street or driveway entrance, up to a maximum of three per lot.
 - c. Maximum Permitted Area per Sign: Thirty-two square feet.

[Cr. 12-25, Eff. 9-28-12; subd. d. repld. 18-15. Eff. 8-17-18; Repld. ETZ 18-17, Eff. 8-31-18]

(b) Secondary Sign:

1. Permitted Sign Type: Wall Sign or Freestanding Sign.
2. Maximum Permitted Number per Lot: Two.
3. Maximum Permitted Area per Sign: Two square feet.

(c) Properties with parking lots. For properties with parking lots with five or more spaces, these signs are in addition to any other signs permitted signs:

1. Permitted Sign Type: Wall Sign or Monument Sign.
2. Maximum Permitted Number per Lot: One sign for each vehicular entrance, one sign for each vehicular exit, and one sign for each parking area.
3. Maximum Permitted Area per Sign: Four square feet by each vehicular entrance and vehicular exit, and nine square feet in each parking area.

(d) [Repealed 16-45, Eff. 11-24-16]

(6) REGULATIONS FOR NONRESIDENTIAL DISTRICTS. In all nonresidential and mixed use zoning districts (the RM-B district plus all zoning districts not listed in §15.09(1)(a)), signage shall be permitted per the requirements of §15.08(1) to §15.08(4), §15.08(8) to §15.08(10), §15.05(9)(p) for large retail establishments, and the following:

(a) Signage for Residential Uses. Signage for all residential and institutional land uses, including churches, schools, and government buildings, within non-residential zoning districts shall comply with provisions of §15.08(5).

(b) Signage for Nonresidential (Office, Commercial, Institutional, and Industrial) Uses.

1. On-Premise Business Signs. (also see Figure 15.08C).
 - a. For C-1 Conservancy and A-1, A-1Ex, and A-2 Zoning Districts:
 - i. Permitted Sign Type: On-Building (Wall) Sign.
 - (a) Maximum Permitted Number per Lot: One.

- (b) Maximum Permitted Area per Sign: One square foot of signage for every linear foot of exposed exterior wall length on that supporting wall, or 48 square feet per building, whichever is greater.

ii. Permitted Sign Type: Freestanding (Monument) Sign.

- (a) Maximum Permitted Number per Lot: One.
- (b) Maximum Permitted Area per Sign: 32 square feet for all combined sign faces seen at one time.
- (c) Maximum Permitted Sign Height: 8 feet.
- (d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission may approve other requested setback adjustments via site plan approval.

b. For B-1 Central Business Zoning District:

i. Permitted Sign Type: On-Building (Wall, Awning or Projecting) Sign.

- (a) Maximum Permitted Number per Lot: Two per each business located on the lot, except that for businesses with frontage on only one public street, not more than one sign may be a wall, awning, or projecting sign type.
- (b) Maximum Permitted Area: 32 square feet per business with frontage on only one public street; 64 square feet per business with frontage on more than one public street.
[Am. 11-10; Eff. 4-15-11]

ii. Permitted Sign Type: Freestanding (Monument or Arm/Post) Sign.

- (a) Maximum Permitted Number per Lot: One per each business located on the lot.
- (b) Maximum Permitted Area Per Sign: 42 square feet for all combined sign faces seen at one time.
- (c) Maximum Permitted Sign Height: 8 feet. [Am. 15-42; Eff. 8-20-15]
- (d) Minimum Permitted Sign Setback from All Property Lines: 3 feet.
[Am. 12-25, Eff. 9-28-12].

iii. Permitted Sign Type: Sandwich Board. One sandwich board is allowed per business per street frontage adjacent to the business location, with a maximum of two (2) sandwich boards per business only if each sign is placed on a separate street frontage that is adjacent to the business

location. Each sandwich board sign shall not exceed nine (9) square feet in area and four (4) feet in height. They may be displayed outside the building only during business hours, may be located between the curb and sidewalk per sec. 15.08(4)(b)3, shall not obstruct pedestrian or vehicular circulation and visibility, shall be placed directly in front of the business using them, may not obstruct snow storage, and shall be placed directly on the ground or a hard surface.

[Am. 12-09, Eff. 5-24-12]

- iv. **Permitted Sign Location:** Building mounted signs shall not be located on any portion of upper stories. The location of signs shall be integrated with, and not cover, architectural elements and details. Figure 15.08 B shows permitted building mounted sign locations.

Figure 15.08 B: Permitted Building Mounted Sign Locations in B-1 District



c. **For RM-B Residential Mix - Business Zoning District:**

- i. **Permitted Sign Type: On-Building (Wall, Awning or Projecting) Sign.**

(a) Maximum Permitted Number per Lot: One per each business located on the lot, except for corner lots, for which two on-building signs shall be permitted if mounted on separate walls.

(b) Maximum Permitted Area. 48 square feet for any one business.
[Am.. 18-15. Eff. 8-17-18; Appl. to ETZ 18-17, Eff. 8-31-18]

- ii. **Permitted Sign Type: Freestanding (Monument or Arm/Post) Sign.**

(a) Maximum Permitted Number per Lot: One.

(b) Maximum Permitted Area Per Sign: 48 square feet for all combined sign faces seen at one time.

(c) Maximum Permitted Sign Height: 8 feet.

(d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission may approve other requested setback adjustments via site plan approval.
[Am. 12-09, Eff. 5-24-12]

- iii. Permitted Sign Type: Sandwich Board. One sandwich board is allowed per business per street frontage adjacent to the business location, with a maximum of two (2) sandwich boards per business only if each sign is placed on a separate street frontage that is adjacent to the business location. Each sandwich board sign shall not exceed nine (9) square feet in area and four (4) feet in height. They may be out only during business hours, shall be positioned in a way which does not obstruct pedestrian circulation, and may only be placed directly in front of the business using them.
- iv. Permitted Sign Location: Building mounted signs shall not be located on any portion of upper stories. The location of signs shall be integrated with, and not cover, architectural elements and details.
- v. Permitted Sign Type: Unified Business Center Sign. For properties that are a Unified Business Center as defined under §15.02(92):
- (a) Maximum Permitted Number per Unified Business Center: One per unified business center, in addition to the signs permitted for each separate occupant within the unified business center.
- (b) Maximum Permitted Area per Sign: 100 square feet for all combined sign faces seen at one time. The assignment of permitted sign area to individual businesses within the same unified business center will be at the discretion of the property owner.
- (c) Maximum Permitted Sign Height: 15 feet.
- (d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission (or Joint Committee if in the ETZ Area) may approve other requested setback adjustments via site plan approval.
[Am. 12-09, Eff. 5-24-12; Am. 17-11, Eff. 4-14-17; Appl. to ETZ 18-17, Eff. 8-31-18]

d. For B-2 General Business, O-R Office and Research, A-B Agricultural Business, and REC Recreational Zoning Districts:

i. Permitted Sign Type: On-Building (Wall, Projecting, Awning, or Marquee) Sign.

(a) Maximum Permitted Number per Lot: One per each unique business operation on a lot, where each such business operation has a separate building entrance that is related to that operation's location within the building. Corner lots shall be allowed one additional on-building sign, if not mounted on the same wall as the other on-building sign(s).

(b) Maximum Permitted Area per Sign: For the first sign on each wall, one and one-half (1 ½) square feet of signage for every one linear foot of exposed exterior wall length on that supporting wall, with a maximum sign area for that first sign not to exceed 300 square feet. No other sign on the same wall shall exceed 64 square feet in area. The assignment of permitted sign area to individual businesses within the same building will be at the discretion of the property owner.

(c) Permitted Location: On any facade which is visible from a public street, except facades which are adjacent to a residentially zoned property or entirely residential component of a planned unit development.

ii. Permitted Sign Type: Freestanding (Monument or Pylon) Sign, for sign placement within 2,000 feet of an interstate highway or 1,300 feet of State Highway 19 or U.S. Highway 51.

(a) Maximum Permitted Number per Lot: Two.

(b) Maximum Permitted Sign Area: 300 square feet if within 2,000 feet of the interstate and/or 1,300 feet of Highway 19; 150 square feet if within 1,300 feet of Highway 51 but not also within the specified distances from the interstate and/or Highway 19.

(c) Maximum Permitted Sign Height: For first freestanding sign, 45 feet if within 2,000 feet of the interstate and/or 1,300 feet of Highway 19, 25 feet if within 1,300 feet of Highway 51 but not also within the specified distances from the interstate and/or Highway 19. For second freestanding sign, 20 feet.
[Am. 18-15. Eff. 8-17-18]

(d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission (or Joint Committee if in the ETZ Area) may approve other requested setback adjustments via site plan approval. [Am. 12-09, Eff. 5-24-12; Am. 17-11, Eff. 4-14-17; Appl. to ETZ 18-17, Eff. 8-31-18]

iii. Permitted Sign Type: Freestanding (Monument or Pylon) Sign, for sign placement beyond 2,000 feet of an interstate highway, and beyond 1,300 feet of State Highway 19 or U.S. Highway 51.

- (a) Maximum Permitted Number per Lot: One.
- (b) Maximum Permitted Area per Sign: 64 square feet for all combined sign faces seen at one time.
- (c) Maximum Permitted Sign Height: 15 feet.
- (d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission may approve other requested setback adjustments via site plan approval.
[Am. 12-09, Eff. 5-24-12]

iv. Permitted Sign Type: Unified Business Center Sign. For properties that are a Unified Business Center as defined under §15.02(92):

- (a) Maximum Permitted Number per Unified Business Center: One per unified business center, in addition to the signs permitted for each separate occupant within the unified business center.
- (b) Maximum Permitted Area per Sign: 100 square feet for all combined sign faces seen at one time. The assignment of permitted sign area to individual businesses within the same unified business center will be at the discretion of the property owner.
- (c) Maximum Permitted Sign Height: 15 feet.
- (d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission (or Joint Committee if in the ETZ Area) may approve other requested setback adjustments via site plan approval.
[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13; Am. 17-11, Eff. 4-14-17]

v. Permitted Sign Type: Sandwich Board. One sandwich board is allowed per business per street frontage adjacent to the business location, with a maximum of two (2) sandwich boards per business only if each sign is placed on a separate street frontage that is adjacent to the business location. Each sandwich board sign shall not exceed nine (9) square feet in area and four (4) feet in height. They may be out only during business hours, shall be positioned in a way which does not obstruct pedestrian

circulation, and may only be placed directly in front of the business using them. Sandwich board signs are not allowed in the A-B district.

e. For B-3 Highway Business Zoning District:

i. Permitted Sign Type: On-Building (Wall, Marquee or Awning) Sign.

- (a) Maximum Permitted Number per Lot: Two per each business located on the lot, with no more than one sign per business per facade.
- (b) Maximum Permitted Area per Sign: One and one-half square feet of signage for every one linear foot of exposed exterior wall length on that supporting wall. The assignment of permitted sign area to individual businesses within the same building will be at the discretion of the property owner.
- (c) Permitted Location: On any facade which is visible from a public street, except facades which are adjacent to a residentially zoned property or an entirely residential component of a planned unit development.

ii. Permitted Sign Type: Freestanding Sign, for sign placement within 2,000 feet of an interstate highway or 1,300 feet of State Highway 19 or U.S. Highway 51.

- (a) Maximum Permitted Number per Lot: Two.
- (b) Maximum Permitted Sign Area: 300 square feet if within 2,000 feet of the interstate and/or 1,300 feet of Highway 19; 150 square feet if within 1,300 feet of Highway 51 but not also within the specified distances from the interstate and/or Highway 19.
- (c) Maximum Permitted Sign Height: 45 feet if within 2,000 feet of the interstate and/or 1,300 feet of Highway 19; 25 feet if within 1,300 feet of Highway 51 but not also within the specified distances from the interstate and/or Highway 19. For second freestanding sign, 20 feet.
[Am. 18-15. Eff. 8-17-18; Appl. to ETZ 18-17, Eff. 8-31-18]

(d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission (or Joint Committee if in the ETZ Area) may approve other requested setback adjustments via site plan approval. [Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13; Am. 17-11, Eff. 4-14-17]

iii. Permitted Sign Type: Freestanding Sign, for sign placement beyond 2,000 feet of an interstate highway and beyond 1,300 feet of State Highway 19 or U.S. Highway 51.

- (a) Maximum Permitted Number per Lot: One.

- (b) Maximum Permitted Area per Sign: 64 square feet for all combined sign faces seen at one time.
- (c) Maximum Permitted Sign Height: 15 feet.
- (d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission may approve other requested setback adjustments via site plan approval.
[Am. 12-09, Eff. 5-24-12]

iv. Permitted Sign Type: Unified Business Center Sign. For properties that are a Unified Business Center as defined under §15.02(92):

- (a) Maximum Permitted Number per Unified Business Center: One per every 10 acres or fraction thereof in the unified business center, in addition to the signs permitted for each separate occupant within the unified business center. There shall be no more than one (1) free-standing sign along each public street on which the unified business center has frontage.
- (b) Maximum Permitted Area per Sign: 200 square feet for all combined sign faces seen at one time. The assignment of permitted sign area to individual businesses within the same unified business center will be at the discretion of the property owner.
- (c) Maximum Permitted Sign Height: If a freestanding sign, maximum height shall be 30 feet if located at least 2,000 feet from an interstate highway and 1,300 feet of State Highway 19, and 45 feet if located within 2,000 feet of an interstate highway or 1,300 feet of State Highway 19.
- (d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission may approve other requested setback adjustments via site plan approval.
[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13]

f. For M-1, M-2, M-3 Zoning Districts.

i. Permitted Sign Type: On-Building (Wall) Sign.

- (a) Maximum Permitted Number per Lot: Two per each business located on the lot, with no more than one sign per business per facade.
- (b) Maximum Permitted Area per Sign: One and one-half square feet of signage for every one linear foot of exposed exterior wall length on that supporting wall. The assignment of permitted sign area to individual businesses within the same building will be at the discretion of the property owner.
- (c) Permitted Location: On any facade which is visible from a public street, except facades which are adjacent to a residentially zoned property.

ii. Permitted Sign Type: Freestanding Sign, for a sign located within 2,000 feet of an interstate highway or 1,300 feet of State Highway 19 or U.S. Highway 51.

- (a) Maximum Permitted Number per Lot: Two.
- (b) Maximum Permitted Area: 300 square feet if within 2,000 feet of the interstate and/or 1,300 feet of Highway 19; 150 square feet if within 1,300 feet of Highway 51 but not also within the specified distances from the interstate and/or Highway 19.
- (c) Maximum Permitted Sign Height: For first freestanding sign, 45 feet if within 2,000 feet of the interstate and/or 1,300 feet of Highway 19; 25 feet if within 1,300 feet of Highway 51 but not also within the specified distances from the interstate and/or Highway 19. For second freestanding sign, 20 feet.
[Am. 18-15. Eff. 8-17-18]
- (d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission (or Joint Committee if in the ETZ Area) may approve other requested setback adjustments via site plan approval.

[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13; Am. 17-11, Eff. 4-14-17; Appl. to ETZ 18-17, Eff. 8-31-18]

iii. Permitted Sign Type: Freestanding Sign, for a sign located beyond 2,000 feet of any interstate highway and beyond 1,300 feet of State Highway 19 or U.S. Highway 51.

- (a) Maximum Permitted Number per Lot: One.

(b) Maximum Permitted Area per Sign: 48 square feet for all combined sign faces seen at one time.

(c) Maximum Permitted Sign Height: 15 feet.

(d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission may approve other requested setback adjustments via site plan approval.
[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13]

iv. Permitted Sign Type: Unified Business Center Sign. For properties that are a Unified Business Center as defined under §15.02(92):

(a) Maximum Permitted Number per Unified Business Center: One per every 10 acres or fraction thereof in the unified business center, in addition to the signs permitted for each separate occupant within the unified business center. There shall be no more than one (1) free-standing sign along each public street on which the unified business center has frontage.

(b) Maximum Permitted Area per Sign: 150 square feet for all combined sign faces seen at one time. The assignment of permitted sign area to individual businesses within the same unified business center will be at the discretion of the property owner.

(c) Maximum Permitted Sign Height: If a freestanding sign, maximum height shall be 30 feet if located at least 2,000 feet from any interstate highway and 1,300 feet from any other state or federal highway, and 40 feet if located within 2,000 feet of any interstate highway or 1,300 feet of any other state or federal highway.

(d) Minimum Permitted Sign Setback from All Property Lines: The greater of actual sign height or 3 feet. The Zoning Administrator may approve lesser sign setbacks for monument signs that are at least 8 feet from any vehicular, bicycle, or pedestrian travel way, based on the relationship to pedestrian and vehicular traffic movement and safety, the Village's adopted aesthetic standards for the area, and Village and utility use and operations. The Planning and Zoning Commission may approve other requested setback adjustments via site plan approval.
[Am. 12-09, Eff. 5-24-12; Am. 13-021, Eff. 10-10-13]

g. For PUD Zoning Districts: Permitted sign types, number, area, location and other characteristics shall be per an approved final development plan under §15.15. No signage which is not shown on an approved final development plan for a planned unit development project, or an amendment thereto, shall be located on any site zoned PUD.

Figure 15.08 C: SUMMARY of Maximum On-Premise Business Sign Areas and Numbers (for Non-Residential Uses). [Am. 11-10; Eff. 4-16-11; Am. 13-021, Eff. 10-10-13; Am. 17-11, Eff. 4-14-17; Am. 17-17, Eff. 6-30-17; Appl. to ETZ 18-17, Eff. 8-31-18]

Zoning Districts	Maximum Sign Area/Height		Maximum Number of Signs
	On Building Signs	Freestanding Signs	
C-1, A-1, A-1X, A-2	Wall Only: 1 sf of sign area per 1 ft of exterior wall length on that wall or 48 sf per building, whichever is greater	Monument or Arm/post only: Up to 32 sf for all combined sign faces seen at one time Max Height: 8ft	1 on-building sign and 1 freestanding sign per lot
B-1	Wall, Awning, or Projecting: 32 sf for each business in the building with frontage on one public street; 64 sf for each business with frontage on more than one public street	Monument or Arm/Post: 42 sf for all combined sign faces seen at one time Max Height: 8 ft	2 on-building sign per business, with not more than 1 wall, awning, or projecting sign. 1 freestanding sign per lot, provided that setbacks met.
RM-B	Wall Awning or Projecting: 48 sf for each business in the building	Monument or Arm/post: 48 sf for all combined sign faces seen at one time Max Height: 8 ft	1 on-building sign per business, 2 for corner lots. 1 freestanding sign per lot.
B-2, O-R, A-B, REC	Wall, Projecting, Awning, or Marquee: For the first sign, 1 ½ sf of sign area per 1 ft of wall length on that wall, up to a maximum of 300 sf; 64 sf for each additional wall sign	Max Area: 64 sf per lot (150 sf w/i 1,300 ft of USH 51; 300 sf w/i 2,000 ft of I-39/90 and/or 1,300 ft of STH 19) Max Height: 15 ft (25 ft w/i 1,300 ft of USH 51; 45 ft w/i 2,000 ft of I-39/90 and/or 1,300 ft of STH 19) Max Height for 2 nd sign (where permitted): 20 feet	1 on-building sign per business operation with separate entrance, 1 more per lot for corner lots. 1 freestanding sign per lot, with 2 nd freestanding sign within 2,000 ft of I-39/90 and/or 1,300 ft of STH 19 and/or USH 51
B-3	Wall, Awning or Marquee: 1 ½ sf of sign area per 1 ft of exterior wall length on that wall	64 sf per lot (150 sf w/i 1,300 ft of USH 51; 300 sf w/i 2,000 ft of I-39/90 and/or 1,300 ft of STH 19) Max Height: 15 ft (25 ft w/i 1,300 ft of USH 51; 45 ft w/i 2,000 ft of I-39/90 and/or 1,300 ft of STH 19) Max Height for 2 nd sign (where permitted): 20 feet	2 on-building signs per business. 1 freestanding sign per lot, with 2 nd freestanding sign within 2,000 ft of I-39/90 and/or 1,300 ft of STH 19 and/or USH 51
M-1, M-2, M-3	Wall Only: 1 ½ sf of sign area per 1 ft of exterior wall length on that wall	48 sf per lot (150 sf w/i 1,300 ft of USH 51; 300 sf w/i 2,000 ft of I-39/90 and/or 1,300 ft of STH 19) Max Height: 15 ft (25 ft w/i 1,300 ft of USH 51; 45 ft w/i 2,000 ft of I-39/90 and/or 1,300 ft of STH 19) Max Height for 2 nd sign (where permitted): 20 feet	2 on-building signs per business. 1 freestanding sign per lot, with 2 nd freestanding sign within 2,000 ft of I-39/90 and/or 1,300 ft of STH 19 and/or USH 51.

NOTE: This table is only a summary of the sign regulations applicable to nonresidential uses. The remainder of §15.08(6) contains more detailed and specific requirements, including other types of signs allowed in these districts under certain circumstances. [Am.. 18-15. Eff. 8-17-18]

2. Auxiliary Signs for Non Residential Uses.

- a. Permitted Sign Type: Wall Sign, Freestanding Sign, or sign mounted to gas canopy.
[Am. 13-021, Eff. 10-10-13]
- b. Maximum Permitted Number per Lot: Per approved site plan.
- c. Maximum Permitted Area per Sign: Combined area of all auxiliary signs on any lot shall not exceed 50% of the permitted freestanding or on-building sign area for the lot, whichever is greater.

3. Properties with parking lots. For properties with parking lots with five or more parking spaces, these signs are in addition to any other signs permitted signs:

- a. Permitted Sign Type: Wall Sign or Monument Sign.
- b. Maximum Permitted Number per Lot: One sign for each vehicular entrance, one sign for each vehicular exit, and one sign for each parking area.
- c. Maximum Permitted Area per Sign: Four square feet by each vehicular entrance and vehicular exit, and nine square feet in each parking area.

(7) OFF-PREMISE ADVERTISING AND BILLBOARD SIGNS.

(a) Definitions.

1. "Adjacent area" means the area within 660 feet of the east and west edges of the right of way lines of U.S. Highway 51.
2. "Billboard sign" means a freestanding sign located within the adjacent area of U.S. Highway 51 and that exceeds 100 square feet in area.

(b) Off-premise advertising signs and billboard signs are permitted within the adjacent area of U.S. Highway 51 in the M-2 General Industrial and the B-2 General Business Districts, subject to the following restrictions:

1. No off-premise advertising sign or billboard sign may be constructed prior to the issuance of a permit from the Zoning Administrator for the proposed sign. The exceptions to the permit requirement provided under sec. 15.08(2)(i) do not apply to off-premise advertising signs and billboard signs.
2. No billboard sign may be placed within 2,300 feet of another billboard sign.
3. No off-premise advertising sign or billboard sign may be placed within 1,000 feet of an entrance or exit ramp on U.S. Highway 51, measured from the beginning or ending of the pavement widening at the exit from or entrance to the highway.
4. No billboard sign may be placed within 660 feet of any Residential District in the Village of DeForest, including those districts described in sec. 15.10 (2) and including residential areas in Planned Unit Development (PUD) Districts, and designated residential areas in the Village's Comprehensive Plan.

5. All billboard signs and off-premise advertising signs must be designed and constructed so that the messaging faces traffic traveling on U.S. Highway 51. Billboard signs may be double-sided and V-shaped.
6. Electronic billboard signs must be turned off between midnight and 4:00 a.m., and shall also comply with the restrictions related to length of cycle, brightness, and maintenance as provided in sec. 15.08(4)(c) for Variable Message Signs (VMS).
7. Billboard signs shall be no greater than fifteen (15) feet high and fifty (50) feet wide in dimension (750 total square feet) on any one side, inclusive of any border and trim but excluding the base or apron, supports and other structural members.
8. Billboard signs shall not be placed at a height greater than thirty-five (35) feet above the height of the pavement surface of U.S. Highway 51 closest to the billboard.
9. Signs may be placed up to 3 feet from the lot line shared with the Wisconsin Department of Transportation along U.S. Highway 51, but said signs shall not encroach upon the right of way. This provision supersedes setback requirements otherwise provided under sec. 15.08, but only with respect to the lot lines described in this paragraph.
10. Off-premise advertising signs and billboard signs shall count toward the maximum permitted number of signs on the lot.

(c) Off-premise advertising signs are permitted in the M-3 Intensive Industrial District, subject to the following restrictions:

1. No off-premise advertising sign may be constructed prior to the issuance of a permit from the Zoning Administrator for the proposed sign. The exceptions to the permit requirement provided under sec. 15.08(2)(i) do not apply to off-premise advertising signs.
2. Off-premise advertising signs shall count toward the maximum permitted number of signs on the lot.

[Cr. 16-45. Eff. 11-24-16]

(8) STRUCTURAL REQUIREMENTS

(a) All signs shall be constructed and mounted so as to comply with State Building Codes.

(b) No sign or any part thereof, or anchor, brace, or guide rod shall be attached, fastened, or anchored to any fire escape, fire ladder, or standpipe.

(c) No sign or any part thereof, or anchor, brace or guide rod shall be attached, erected, or maintained which may cover or obstruct any door, doorway, or window of any building which may hinder or prevent ingress or egress through such door, doorway, or window, or which may hinder or prevent the raising or placing of ladders against such building in the event of fire.

(d) All signs shall in no instance create a traffic visibility or other safety hazard.

(e) No sign not designed and constructed to withstand winds during typical Wisconsin storm events shall be erected at any location.

(f) No free-standing sign shall be erected at any location which is not designed and constructed with footings for support of such sign which extend not less than 42 inches below the existing ground level.

(g) No sign attached to a building which is permitted to project away from the building wall shall be designed and constructed in which the attachment to such wall extends above a point of bearing with the roof rafters, except that roof parapets and roof-mounted mechanical equipment screening walls may be used as sign installation areas if integral to the architectural design of the building as determined by the Zoning Administrator. [Am. 12-09, Eff. 5-24-12]

(h) No illuminated sign shall be erected at any location which is not designed and constructed to meet the following requirements:

1. All signs shall be constructed and maintained to conform with State Electrical Codes and shall bear UL labels. All sign permit applications in which electrical wiring and connections are proposed shall be submitted to the Electrical Inspector. The Electrical Inspector shall examine the plans and specifications submitted for the proposed sign and may require additional information relating to the proposed electrical installation from the applicant. If the Electrical Inspector determines that the proposed installation complies with local ordinances relating to the electrical wiring and construction, then the Electrical Inspector shall approve the application and submit the approved application to the Zoning Administrator. The Zoning Administrator may not approve a sign permit application for an illuminated sign unless and until approval is received from the Electrical Inspector.
2. Unless an illuminated sign bears the label of approval of a recognized testing laboratory, all illuminated signs shall be inspected and approved by the Electrical Inspector on the site prior to the erection of the sign. No illuminated sign, despite issuance of the sign permit, shall be erected until the site inspection has been made or waived by the Electrical Inspector and the sign permit initialed or stamped to show the Electrical Inspector's approval.
3. All illuminated signs shall be equipped with a watertight safety switch, located where electric current enters the sign. All parts covering service openings to the electrical supply shall be securely fastened.
4. No illuminated sign shall be connected to an electric power source except by an electrical contractor, unless the only connection to the electric power source is through a grounded three-prong heavy duty plug.
5. All free-standing illuminated signs shall be supplied power only by underground wiring.

Signage found to be in violation of the provisions of this subsection shall be subject to the provisions of the Village of DeForest Building Code and §15.08(2)(h).

(9) MAINTENANCE REQUIREMENTS.

(a) All signs and structures appurtenant thereto shall be maintained in a neat and proper state of appearance.

(b) Proper maintenance shall be the absence of loose materials (including peeling paint, paper or other material), the lack of excessive rust, the lack of excessive vibration or shaking, and the presence of the original structural integrity of the sign, its frame and other supports, its mounting, and all components thereof.

(c) The repainting, changing of parts, and preventive maintenance of signs which completely conform to the requirements of this section, and result in absolutely no change in the appearance of the sign from that originally approved, shall not be deemed alterations requiring a sign permit.

(d) The owner, lessee, or manager of a sign, and the owner of the land on which the same is located, shall keep grass or weeds and other growth cut and debris and rubbish cleaned up and removed from the lot on which the sign is located.

(e) The base of signs shall be landscaped so as to conceal footings, mountings, brackets, and related structural elements.

(f) A sign which is improperly maintained or is abandoned or is unsafe or otherwise exists in violation of this ordinance, shall be removed by the sign permit holder or the owner of the property on which the sign is located within three months from the date of disrepair, abandonment, or unsafe condition unless the sign permit holder or owner receives actual notice from the Zoning Administrator of the problem, per the requirements of §15.08(2)(f).

(10) NONCONFORMING SIGNS.

(a) General Provisions Regarding Nonconforming Signs.

1. Signs lawfully existing at the time of the adoption or amendment of this section may be continued although the use, size, or location does not conform with the provisions of this section. However, it shall be deemed a nonconforming use or structure; and the provisions of §15.17 shall apply. Nonconforming signs may be maintained. No nonconforming on-premise sign shall be altered or moved to a new location without being brought into compliance with the requirements of this Section. Refer also to §15.08(10)(b)(1), below.
2. Business signs on the premises of a nonconforming use or building may be continued, but new signs for such uses shall not be allowed, nor shall expand in number, area, height, or illumination. New signs, not to exceed the maximum allowable sign areas under this section, may be erected only upon the complete removal of all other signs existing at the time of adoption of this section.
3. Nonconforming signs shall be removed when the principal structure located on the premises undergoes a change of use, or shall be removed per §15.08(10)B. Closing businesses must remove their building signs and freestanding sign faces within 60 days of closing, or sooner if the Zoning Administrator determines that the signs do not meet the maintenance requirements of §15.08(9).

4. Signage not in compliance with the provisions of this section shall be subject to the provisions of §15.08(10)B.
5. Whenever there is a change in the sign user (excluding off-premise signs), sign owner, or owner of the property on which the sign is located, the new sign user, sign owner, or new property owner shall forthwith notify the Zoning Administrator of the change. No new sign permit is required unless there is modification of the sign face or sign structure. The sign will continue to be considered nonconforming.

(b) Removal of Nonconforming Signs.

1. Alteration of Signs.
 - a. For the purpose of this section, alteration of a sign is considered to be any structural change to the exterior appearance of any part of the sign, its frame, its supporting structure, material, height, location, or any other alterations of comparable scope.
[Am. 12-09, Eff. 5-24-12]
 - b. Altering a sign does not include maintaining the existing appearance of the sign; replacing the sign face or the supporting structure with identical materials, colors, and messages; changing the message of a marquee or community information sign; or changing the face of an off-premise advertising sign.
 - c. A tenant sign which comprises part of a group sign may be replaced to accommodate a new tenant sign without triggering the need to bring the entire group sign, or any of its parts, into compliance with the provisions of this section.
2. All non-conforming signs found not to be in compliance with the provisions of this subchapter shall be removed within 30 days of receiving written notice of noncompliance and removal from the Zoning Administrator, except as otherwise provided for in §15.08(2)(f).
3. The penalties of the Village of DeForest Zoning Code or Building Code may be applicable to violations of the provisions of this section.

15.09 ZONING DISTRICTS; MAPS.

(1) **ZONING DISTRICTS.** In order to carry out the purposes and intent of this chapter, the Village of DeForest and the ETZ Area are hereby divided into the following districts:

(a) Residential Districts

1. RH-1 Rural Housing District
2. RE-1 Residential Estate Single Family Residence District
3. RE-2 Residential Estate Single Family Residence District
4. RN-1 Residential Neighborhood Single Family Residence District
5. RN-2 Residential Neighborhood Single Family Residence District
6. RN-2A Residential Neighborhood Single Family Residence District
7. RM-3 Residential Mix Two Family Housing District

8. RM-4 Residential Mix Multi-Family Housing District
9. RM-5 Residential Mix Elderly Housing District
10. RM-B Residential Mix - Business District
11. RM-6 Residential Mix - Traditional Housing District

(b) Business Districts

1. B-1 Central Business District
2. B-2 General Business District
3. B-3 Highway Business District
4. A-B Agricultural Business District
5. O-R Office and Research District
6. REC Recreational District

(c) Industrial Districts

1. M-1 Restricted Industrial District
2. M-2 General Industrial District
3. M-3 Intensive Industrial District

(d) Agricultural Districts

1. A-1 Agricultural District
2. A-1 Ex Exclusive Agricultural District
3. A-2 General Agricultural District
4. A-3 Agricultural Transition District
5. A-4 Small Lot Exclusive Agricultural District

(e) Other Districts

1. C-1 Conservancy District
2. PUD Planned Unit Development District
3. WP Wellhead Protection Overlay District

[Cr. 13-06, Eff. 4-4-13]

(2) ZONING MAPS. The locations and boundaries of the districts established herein are shown upon the DeForest Zoning Map dated December 29, 2007 or as amended from time to time through actions of the Village Board under §15.03(7) and §15.035(3), which are hereby incorporated into this chapter. The Zoning Map, together with all notations, references and other information shown thereon, and all amendments thereto, shall be a part of this Code and shall have the same force and effect as if the maps were fully set forth and described herein.

[Am. 08-14; Eff. 5-16-08]

(3) BOUNDARY LINES. Wherever any uncertainty exists as to the boundary of any zoning district as shown on the Zoning Maps, the following rules shall apply:

(a) Where district boundary lines are indicated as following streets, alleys or similar rights-of-way, they shall be construed as following the center lines thereof.

(b) Where district boundary lines are indicated as approximately following lot lines, such lot lines shall be construed to be the boundaries.

(c) Where a single lot held at the effective date of this chapter is divided by a district boundary line, the entire lot shall be construed to be within the less restricted district; provided, however, that this provision shall not apply in any case where it would increase the area of the less restricted portion of the lot by more than twenty percent (20%) nor in any case where it would reclassify any property from the A-1X district.

(d) Where the district boundary line is shown as following the shoreline of any navigable waterway, the boundary shall continue to follow the shoreline despite changes in the location thereof due to accretion or avulsion.

(4) CHANGES IN ZONING DISTRICT DESIGNATION. Upon the enactment of any ordinance changing the district designation of any property, the Zoning Administrator shall make an appropriate amendment to the Zoning Map(s) to reflect the revised zoning.

(5) SPLIT ZONING OF LOTS. No lot shall be divided into more than one zoning district, other than an overlay district or another zoning district intentionally created with boundaries to follow land features other than lot boundaries.

[Cr. 10-04, Eff. 2-4-10]

15.10 RESIDENTIAL DISTRICTS.

(1) PURPOSE. The residential district regulations are intended to govern the location, intensity, and method of development for the residential areas subject to this chapter. The residential districts provide for a variety of housing types and price ranges while at the same time maintaining the character and integrity of homogeneous residential areas and existing neighborhoods. The regulations of each district are designed to provide protection to the character of existing developments while allowing new growth in accordance with specific development standards and objectives. Public utility services are required as a prerequisite to development in all residential districts located within the Village.

(2) RESIDENTIAL DISTRICTS. The residential districts are as follows:

(a) RH-1 Rural Housing District. *Min. 2 acre lot size.* The RH-1 Rural Housing District serves as a rural residential district and is intended primarily for lands within the ETZ Area.

(b) RE-1 Residential Estate Single-Family Residence District *Min. 22,000 sq. ft. lot size.* The RE-1 Single-Family Residence District serves as the lowest density residential district for areas not considered rural in character.

(c) RE-2 Residential Estate Single-Family Residence District *Min. 15,000 sq. ft. lot size.* The RE-2 zoning classification serves as a low density, suburban residential district.

(d) RN-1 Residential Neighborhood Single-Family Residence District *Min. 12,000 sq. ft. lot size.* The RN-1 Single-Family Residence District is designed to provide for relatively large lots in a neighborhood setting.

(e) RN-2 Residential Neighborhood Single-Family Residence District *Min. 10,000 sq. ft. lot size.* The RN-2 zoning classification provides an urban single-family home environment.

(f) RN-2A Residential Neighborhood Single-Family Residence District *Min. 7,000 sq. ft. lot size.* The purpose of the RNA Single-Family Residence District is to provide for a district which allows for a more generally affordable single-family home.

(g) RM-3 Residential Mix Two-Family Housing District *Min. 12,000 sq. ft. lot size.* The RM-3 district provides for an urban environment of medium density residential development utilizing single-family detached, two-family dwelling units, and townhomes.

[Am. 13-021, Eff. 10-10-13]

(h) RM-4 Residential Mix Multi-Family Housing District *Min. 12,000 sq. ft. lot size.* The RM-4 district provides for the highest density residential development permissible.

(i) RM-5 Residential Mix Elderly Housing District. The RM-5 district is established to preserve certain areas to accommodate elderly persons in multiple family dwellings. It is intended to provide for developments which are specifically designed to meet the particular needs of elderly persons in accordance with all State and Federal Laws authorizing or regulating such developments.

(j) RM-6 Residential Mix Traditional Housing District *Min. 6,000 sq. ft. lot size.* The RM-6 District is intended to allow the continued use of certain existing small residential lots primarily within the area of the Village bounded by Main Street, Yahara Street, Cleveland Avenue and Murray Street. The district provides for an urban environment of medium density residential development utilizing single-family detached and two-flat dwellings. A two-flat dwelling is defined as a single family home which has been converted for use as two dwelling units; an example being a two story home with an upstairs apartment.

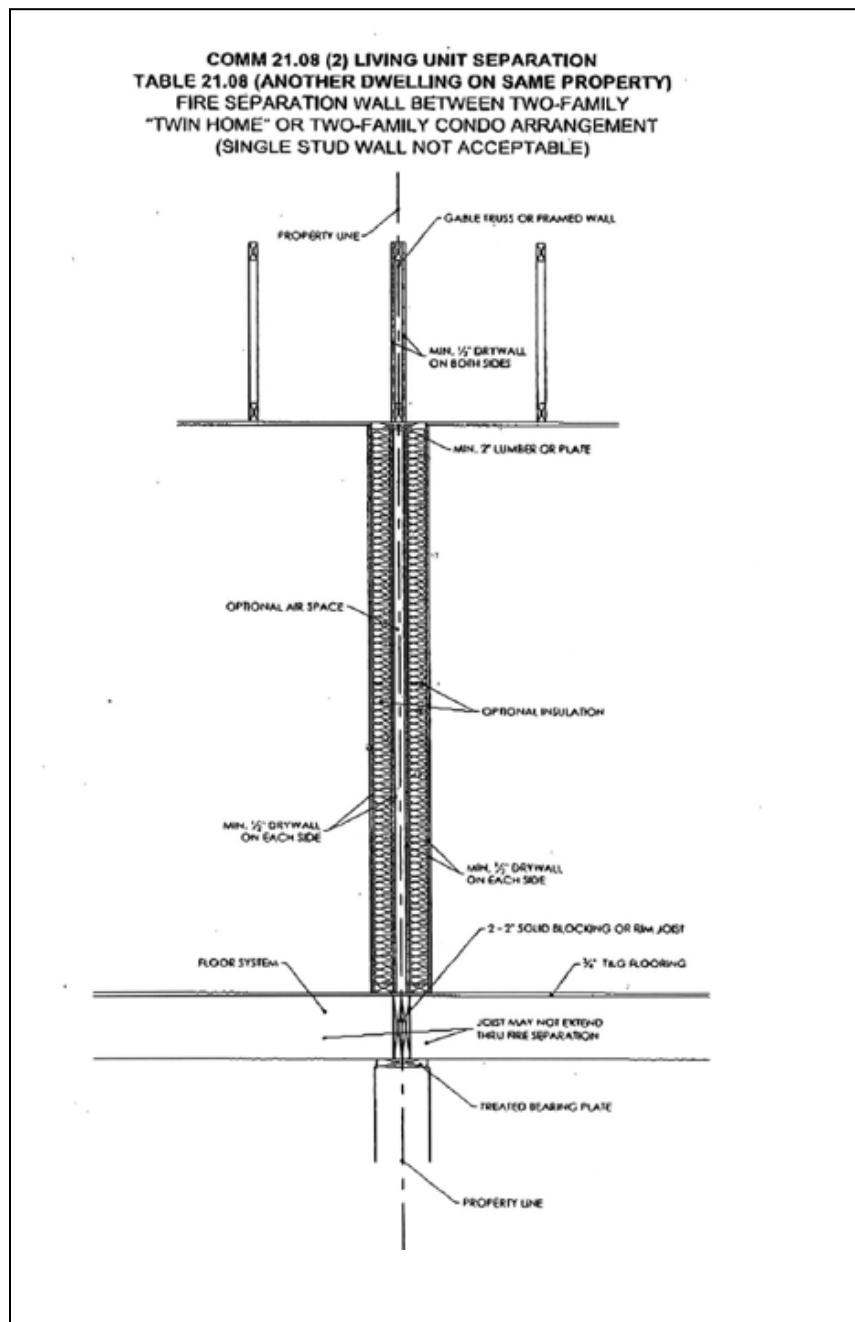
(3) PERMITTED USES. The permitted and allowable conditional uses in each of the residential zoning districts shall be as set forth in Table 15.10A.

(4) BULK STANDARDS. No structure or lot shall be developed, used, or occupied unless it meets the minimum lot width, lot area, yard requirements, height limits and other dimensional standards set forth in Table 15.10B and this subsection.

(a) Zero Lot Line Construction. In residential districts where zero lot line construction is allowed in Table 15.10A, the following standards shall supersede any conflicting standards in Table 15.10B.

1. Lot width at minimum building setback line: The aggregate widths of both lots that a duplex occupies shall total not less than 80 feet. No single lot width shall be less than 35 feet.
2. Lot area (each unit): Minimum 5,000 square feet.
3. Principal Building Setback—Side Yard: Zero feet on side yard(s) that includes the common wall(s) of the structure; 8 feet on other side yards.
 - a. Each unit shall have a separate water lateral connection and meter. The size, type, and installation shall be in accordance with plans and specifications approved by the Village Public Works Committee or its designee.

5. The common wall between the units shall meet the requirements in the graphic that follows, and shall extend from the basement floor to the top of the roof. Compliance with such standard shall be confirmed in writing by the applicant and building inspector, before the building permit shall be issued.



6. The developer shall provide, with the application, a draft agreement or covenant specifying maintenance standards for the common wall, maintenance and replacement standards for exterior surfaces of the building to maintain a neat and harmonious appearance over time, maintenance standards for any common sewer lateral and any other common features, and restrictions against construction of detached single family residences on any of the affected lots in

the event either or all sides of the zero lot line construction dwelling are destroyed. Such agreement or covenant shall also provide that it may not be terminated, amended or otherwise altered without the approval of the Village Board. Such agreement shall be subject to Village Zoning Administrator approval, and then recorded by the developer against all affected properties and continually maintained by the property owners before the building permit will be issued or the conditional use permit takes effect.

[Am. 06-06; Eff. 6-9-06, Am. 07-05; Eff. 02-09-07; Am. 11-10; Eff. 4-16-11]

TABLE 15.10 A RESIDENTIAL DISTRICT USES

[Am. 13-021, Eff. 10-10-13]

Key: P = Permitted Use C = Conditional Use A = Accessory Use NP = Not Permitted

TYPE OF USE	RH-1	RE-1	RE-2	RN-1	RN-2	RN-2A	RM-3	RM-4	RM-5	RM-6
Residential Uses										
Single-Family Detached Residence	P	P	P	P	P	P	P	P	NP	P
Two-Family Residential	NP	NP	NP	NP	NP	NP	P	P	NP	NP
Multiple-Family Residential	NP	NP	NP	NP	NP	NP	NP	P	NP	NP
Two Flat Residential [Am. 13-021, Eff. 10-10-13]	NP	NP	NP	NP	NP	NP	NP	P	NP	P
Residential (Elderly Only)	NP	NP	NP	NP	NP	NP	NP	P	P	NP
Townhouse Residential [Am. 13-021, Eff. 10-10-13]	NP	NP	NP	NP	NP	NP	P	P	NP	NP
Zero Lot Line Construction	NP	NP	NP	NP	NP	NP	P	P	P	C
Day Care (1-3 persons not including family members)	P	P	P	P	P	P	P	P	P	C
Community Living Arrangements (1-8 residents)	P	P	P	P	P	P	P	P	P	P
Community Living Arrangements (9-15 residents)	C	C	C	C	C	C	C	P	C	C

Community Living Arrangements (16 plus residents)	NP	NP	NP	NP	NP	NP	NP	C	NP	NP
TYPE OF USE	RH-1	RE-1	RE-2	RN-1	RN-2	RN-2A	RM-3	RM-4	RM-5	RM-6
Temporary campground associated with special event, subject to §15.16(10). On lots with pre-existing civic, cultural, or institutional use only. [Cr. 10-04, Eff. 2-4-10; Am. 11-10; Eff. 4-16-11]	C	C	C	C	C	C	C	C	C	C
Business Uses										
Bed and Breakfast	C	NP	NP	NP	NP	NP	NP	NP	NP	C
Group Day Care Center (4 or more persons not including family members)	C	C	C	C	C	C	C	C	C	C
Public, Cultural and Recreation Uses										
Indoor Civic, Cultural & Institutional (Incl. Schools, Churches, Local Government & Emergency Services)	C	C	C	C	C	C	C	C	C	C
Outdoor Recreational/Open Space (Public/ Private)	C	C	C	C	C	C	C	C	C	C
Industrial and Higher Intensity Uses										
Utilities/Communication Towers/Transportation	C	C	C	C	C	C	C	C	C	C
Low Mass and Low Intensity Uses										
Agricultural uses w/not more than 1 livestock animal per acre of land	P	NP	NP	NP	NP	NP	NP	NP	NP	NP
Agricultural-Related Office/Research/Laboratory		NP	NP	NP	NP	NP	NP	NP	NP	NP
Accessory Uses										
Home Occupation	P	P	P	P	P	P	P	P	P	P

Residential Garage/Carport - Detached Not to exceed 625 square feet per dwelling unit.	P	P	P	P	P	P	P	P	P	P
TYPE OF USE	RH-1	RE-1	RE-2	RN-1	RN-2	RN-2A	RM-3	RM-4	RM-5	RM-6
Accessory building of up to 200 square feet, including sheds but not garages/carports	P	P	P	P	P	P	P	P	P	P
Accessory building of over 200 square feet, including sheds, garages/carports over 625 square feet per dwelling unit, and farm out buildings	C	C	C	C	C	C	C	P	C	C
On-Site Parking Lot	NP	NP	NP	C	C	C	C	P	P	C
Small solar or wind energy system, subject to Section 15.04(24) [Cr. 10-04, Eff. 2-4-10].	P	P	P	P	P	P	P	P	P	P

TABLE 15.10B RESIDENTIAL DISTRICT BULK STANDARDS

[Am. 07-05; Eff. 02-09-07; Am. 13-021, Eff. 10-10-13; Am. 15-036; Eff. 7-30-15;]

BULK STANDARDS	RH-1	RE-1	RE-2	RN-1	RN-2	RN-2A	RM-3	RM-4	RM-5	RM-6
Minimum Lot Width (Lineal Ft.) [Am. 08-14; Eff. 5-16-08]	150	100	100	100	80	**70	100	**100	**100	50
Minimum Lot Frontage on Public Street (Lineal Ft.) [Am. 13-021, Eff. 10-10-13]	NA	60	60	60	50	40	60	60	60	40
Minimum Lot Area (Sq. Ft.)	87,120	22,000	15,000	12,000	10,000	**7,000	12,000	12,000	12,000	6,000
Minimum Lot Area/per Dwelling Unit (Sq. Ft.)	0	22,000	15,000	12,000	10,000	**7,000	5,000	2,500	2,000	3,000
Max. Building Height (Ft.) Residential	35	35	35	35	35	35	35	40	40	35
Max. Building Height (Ft.) Non-Residential	40	40	40	40	40	40	40	40	40	40
Max. Number of Stories	3	3	3	3	3	3	3	3	3	3
Minimum Floor Area/D.U. (Sq. Ft.) [Am. 18-21; Eff. 10-26-18; Am. 22-14, Eff. 6-18-22]	1,200/ 1 story 1,800/ 2+story	2,500/ 1 story; 3,200/ 2+story	1,700/ 1 story; 2,200/ 2+story	1,200/ 1 story; 1,800/ 2 story	1,100/ 1 story 1,800/ 2 story	1,000/ 1 story 1,400/ 2 story	900/ 1 story 1,400/ 2 story	<u>Elderly Housing</u> 250/studio 400/1 bdrm 550/2+ bdrm <u>All other housing</u> 500/ studio 700/ 1 bdrm 950/2+ bdrm	250/ studio 400/ 1 bdrm 550/ 2+ bdrm	800/ 1 story 1,200/ 2 story

Minimum Principal Building Setbacks (See also Section 15.04(8) for permitted intrusions into setbacks)

Front and Street Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	30	30	30	30	25	25	25	25	25	20
Interior Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	15	15	10	10	8	8	8	10	10	8
Rear Yard (Ft.)	50	40	40	30	30	25	30	30	30	25

Minimum Detached Accessory Building Setbacks

(See also Section 15.04(4), regarding restrictions for placement in easements) [Am. 13-021, Eff. 10-10-13]

BULK STANDARDS (Continued)	RH-1	RE-1	RE-2	RN-1	RN-2	RN-2A	RM-3	RM-4	RM-5	RM-6
Front and Street Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	35	35	35	30	25	25	25	25	25	20
Interior Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	5	5	5	5	5	5	5	5	5	5
Rear Yard (Ft)	5	5	5	5	5	5	5	5	5	5
Animal Housing Building Rear Yard Setback (Ft)	50	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A	N/A

Minimum Green Space %

[Am. 15-045, Eff. 12-24-15]

For Residential Use	50%	60%	60%	60%	60%	50%	50%	40%	40%	40%
For Non-Residential Use	30%	30%	30%	30%	30%	25%	25%	20%	20%	20%

Maximum Driveway Opening

Residential At Property Line/Curb Line [Am. 13-021, Eff. 10-10-13]	N/A	20/24	20/24	20/24	20/24	20/24	26/32	26/32	26/32	20/24
Non Residential At Property Line/Curb Line [Am. 13-021, Eff. 10-10-13; Am. 15-045, Eff. 12-24-15]	N/A	34/40	34/40	34/40	34/40	34/40	34/40	34/40	34/40	34/40

Minimum Landscaping Points (add for total points)

-per 100 Linear ft. of Building Foundation		50	50	50	50	50	50	50	45	50
-per 1000 sq. ft. G.F.A.		20	20	20	20	20	20	20	20	20
-per 100 Linear ft/Street Frontage		50	50	50	50	50	50	50	45	50
-per 10,000 sq. ft. of Paved Area or 20 stalls		N/A	N/A	N/A	N/A	N/A	N/A	100	90	N/A

15.105 RESIDENTIAL MIX - BUSINESS DISTRICT.

[Renum. from 15.18 and Am. 13-021, Eff. 10-10-13]

(1) PURPOSE. The RM-B District is established to maintain the attractive pedestrian-friendly scope of a naturally formed or carefully planned mixed use business and residential area that also provides for the needs of surrounding residential areas, is the central place for many non-commercial community activities including cultural and civic functions, and is not predominated by the need to support automobile-oriented retailing.

(2) GENERAL STANDARDS. All buildings and uses hereafter established or enlarged within the RM-B District shall conform to the following standards. The Village may require that a commitment to meeting such standards will be met at the time of rezoning a particular parcel of land to the RM-B zoning district.

(a) Off-street parking facilities must be established to alleviate traffic congestion and to promote shopping convenience and business prosperity, in accordance with the standards in §15.07.

(b) All commercial establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold on or from the premises where produced.

(c) Except where authorized as permitted accessory or incidental functions, all business, service, storage, and display of goods shall be conducted within completely enclosed buildings.

(d) Garages are permitted, provided that such garages may only be used for the parking of motor vehicles used by tenants of the premises or used by the business on the premises.

(e) New development projects shall contain a mix of commercial and residential uses on the same lot and/or in the same building.

(3) BUILDING AND SITE DESIGN: Structures and site designs in the RM-B district shall be as substantially as possible like those described in components of the Village's Comprehensive Plan that, in the determination of the Village Planning and Zoning Administrator, are applicable to the lands zoned RM-B. Other structure or site design types may be included only by a Conditional Use Permit.

(4) PERMITTED USES. Only those permitted principal uses or accessory uses as designated with a "P" in Table 15.105 A shall be permitted within the RM-B District.

(5) CONDITIONAL USES. Those uses designated with a "C" in Table 15.105 A shall be permitted only in accordance with a conditional use permit as provided in sec. 15.16.

(6) BULK STANDARDS. No structure or lot shall be developed, used or occupied unless it meets the minimum lot width, lot area, yard requirements, height limits and other dimensional standards set forth in Table 15.105 B. The maximum floor area for any single retail or commercial service occupancy shall be 20,000 square feet.

(7) LANDSCAPING. Landscaping requirements can be met using adjacent open space area. Adjacent open space will be designated at the time of site plan review. Parking lot landscaping shall be in accordance with sec. 15.06(10) Off-Street Parking Lot Landscaping Requirements.

(8) SITE PLAN REVIEW. All uses in the RM-B district require site plan review as per sec. 15.05.

(9) PARKING. Parking requirement can be met using adjacent streets and alleys and will be designated for each use at the time of site plan review. Handicapped spaces shall be designated by staff.

**TABLE 15.105 A
RESIDENTIAL MIX - BUSINESS DISTRICT USES**

Key: P = Permitted Use C = Conditional Use

NAME/DESCRIPTION OF USE	RM-B
RESIDENTIAL	
Single-Family Residence	C
Duplex Residential. [Am. 13-021, Eff. 10-10-13]	P
Multiple-Family Residential	P
Multiple-Family Residential (Elderly Only)	P
Zero Lot Line Construction. [Am. 13-021, Eff. 10-10-13]	P
Home Day Care (1-3 Persons)	P
Home Occupation (not to exceed 800 square feet in principal building)	P
On-Site Parking Lot, residential	P
Residential Garage - Attached	P
Residential Garage - Detached not to exceed 625 square feet per dwelling unit.	P
SERVICE RETAIL	

**TABLE 15.105 A
RESIDENTIAL MIX - BUSINESS DISTRICT USES**

Key: P = Permitted Use C = Conditional Use

NAME/DESCRIPTION OF USE	
	RM-B
Banks and other financial institutions.	P
Barbershops , beauty shops, and hairdressers.	P
Bed and Breakfast. [Am. 13-021, Eff. 10-10-13]	P
Day care centers.	P
Duplicating , blueprinting, photocopying, addressing, mailing, mailing list and stenographic services.	P
Funeral homes and undertaking facilities.	C
Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments.	P
Gasoline service stations ; provided that all gasoline pumps, storage tanks and accessory equipment must be located at least 10 feet from any existing or proposed street line and all storage tanks must be underground.	C
General grocery stores, fruit and vegetable stores, meat and fish stores, dairy products stores, and miscellaneous food stores.	P
Gift , novelty and souvenir shops.	P
Hotels , motor hotels, motels and similar lodging facilities.	C
Laundries and retail dry-cleaning establishments, including coin operated laundries, commonly called Laundromats.	P

**TABLE 15.105 A
RESIDENTIAL MIX - BUSINESS DISTRICT USES**

Key: P = Permitted Use C = Conditional Use

NAME/DESCRIPTION OF USE	
	RM-B
Liquor stores.	C
Photographic studios and commercial photography establishments.	P
Radios, TV , high-fidelity sound equipment, electronic amplifier, stereophonic sound system, musical instrument or other such device sales, service, repair, testing, demonstration facility.	P
Recreation, indoor including billiards and pool establishments, bowling centers, movie theater, fitness/exercise center, skating rinks, and similar commercial facilities.	P
Restaurants and other eating places, predominant number of patrons carry out, although some seating inside may be provided, including drive-in and drive-through type establishments. Also includes any restaurant with sidewalk cafes and other outdoor service.	C
Restaurants and other eating places, predominant number of patrons sit down at restaurant to eat, although some may carry out food, not including drive-in and drive-through type establishments and sidewalk cafes or other outdoor service.	P
Retail bakers , including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery.	P
Retail sales, soft goods including: antique and secondhand stores, bookstores (not including adult books) and stationary stores, camera/photographic supply stores, candy nut or confectionary, clothing and shoe stores, and variety stores, drug stores and pharmacies, electrical supply stores, florist shops, jewelry, watch and clock stores including repair services, news dealers and newsstands, sporting goods stores and bicycle shops, tobacco and smoker's supplies stores, home furnishings and floor coverings stores, paint and wallpaper stores.	P
Reupholstery and furniture repair and interior design studios.	P

**TABLE 15.105 A
RESIDENTIAL MIX - BUSINESS DISTRICT USES**

Key: P = Permitted Use C = Conditional Use

NAME/DESCRIPTION OF USE	
	RM-B
Tailor shops , dressmaker shops, garment and shoe repair shops and shoe shine parlors.	P
Taverns , bars and other drinking places.	P
Telephone and telegraph offices.	P
PROFESSIONAL SERVICES	
Accounting , auditing and bookkeeping firms or services.	P
Advertising agencies, consumer credit reporting, news agencies, employment agencies.	P
Computer services.	P
Engineering and architectural firms or consultants.	P
Insurance company , agent, broker, and service representative offices.	P
Law offices.	P
Newspaper , periodical or book publishing and printing establishments.	C
Offices , meeting places, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political; religious; charitable; or other non-profit membership organizations.	P
Physician/Surgeon , dentist/dental surgeon, osteopathic physician, optometrist and chiropractor offices.	P

**TABLE 15.105 A
RESIDENTIAL MIX - BUSINESS DISTRICT USES**

Key: P = Permitted Use C = Conditional Use

NAME/DESCRIPTION OF USE	
Real estate agents, brokers, managers and title companies.	P
Scientific , or Educational firms, agencies, offices or services, but not research laboratories or manufacturing operations.	P
Veterinarian's offices and facilities for domestic animals.	C
AG RELATED USES	
Seasonal flower or vegetable plants, landscaping supply or similar produce sales and seasonal sales of cut trees for holiday decorations within or adjacent to a temporary structure, and for a duration not to exceed 90 days in a calendar year.	C
Seasonal vegetable, fruit, or other farm product sales, but not other types of products or merchandise within a permanent sales establishment.	C
MISCELLANEOUS	
Communications antennae.	C
Detached Garage shall only be used for the parking of motor vehicles used by tenants of the premises or vehicles used by the business on the premises.	C
Government , local municipal facilities, libraries, educational institutions, police and fire stations and post offices.	P
Group Day Care Center (4 or More Persons).	C
Hospital or medical center, long term nursing care facility.	C

**TABLE 15.105 A
RESIDENTIAL MIX - BUSINESS DISTRICT USES**

Key: P = Permitted Use C = Conditional Use

NAME/DESCRIPTION OF USE	RM-B
Indoor Civic, Cultural & Institutional (Incl. Schools & Emergency Services).	P
Parking lots , parking garages, or parking structures, public.	P
Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages.	P
Outdoor Recreational/Open Space (Public/ Private) parks and playgrounds.	C
Utilities/Transportation	C

**TABLE 15.105 B
RESIDENTIAL MIX - BUSINESS DISTRICT BULK STANDARDS**

DESCRIPTION	RM-B
Minimum Lot Width (Lineal Ft.)	60
Minimum Lot Area (Sq. Ft.)	6,000
Minimum Lot Area/D.U. (Sq. Ft.)	1,050
Minimum Floor Area/D.U. (Sq. Ft.)	400 studio 800 1 bedroom 1,100 2+ bedroom
Surface Parking within Minimum Front Yard for Principal Buildings . [Am. 13-021, Eff. 10-10-13]	If approved by the Planning & Zoning Commission or Joint Committee, via the site plan approval process. [Am. 16-45, Eff. 11-24-16]
Minimum Green Space (%) Utilizing the combination of adjacent public open space and common space, and with a Stormwater management plan approved by the Village if in the Village limits. [Am. 13-021, Eff. 10-10-13]	15%

TABLE 15.105 B
RESIDENTIAL MIX - BUSINESS DISTRICT BULK STANDARDS

Minimum Principal Building Setbacks

Front and Street Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	10 (Less than 10 ft. permitted as a conditional use)
Interior Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	10 (Less than 10 ft. permitted as a conditional use)
Rear Yard (Ft.)	10 (Less than 10 ft. permitted as a conditional use)
Maximum Building Height (Ft.) - Principal	60
Maximum Garage size	625 feet, with such limit in downtown area only
Maximum Number of Stories - Principal Building	3
Maximum Driveway Opening -At Property Line	34
Maximum Driveway Opening -At Curb Line	40
Minimum Building Exterior Decorative Material Required [Cr. 11-10; Eff. 4-16-11]	35%
Minimum Landscaping Points Standard: See Section 15.06 and Table 15.06A for landscaping requirements. [Am. 11-10; Eff. 4-16-11]	

*Minimum lot area per dwelling unit is the smallest amount of square feet allowed per one dwelling unit. The minimum lot area per dwelling unit is applied once a lot is delineated and the green space has been dedicated. The remaining lot area is used in calculating the max. number of dwelling units that could be placed on that specific lot.

15.11 BUSINESS DISTRICTS.

(1) PURPOSE. The general purposes of the Business Districts are, among other things:

(a) To promote the most desirable use of land so that adequate space is provided in appropriate locations for the various types of business uses, thereby protecting and strengthening the economic base of the community.

(b) To place in separate districts those businesses which may create noise, odors, hazards or unsightliness, or which may generate substantial vehicular traffic.

(c) To permit selected business uses in districts where adjacency to residential areas has sufficient elements of service or convenience to such areas to offset the disadvantages, and to allow, where appropriate, the introduction of residential uses within certain business districts where such uses will be both compatible and mutually supportive.

(d) To encourage the grouping in appropriate locations of compatible business uses which will tend to draw trade that is mutually interchangeable and so promote public convenience and business prosperity and minimize traffic and pedestrian congestion.

(e) To provide for the establishment of off-street parking facilities to alleviate traffic congestion and to promote shopping convenience and business prosperity.

(2) B-1 CENTRAL BUSINESS DISTRICT.

(a) Purpose. The B-1 District is established to maintain the attractive pedestrian-friendly scope of a naturally formed community business area that provides for the needs of surrounding residential areas, is the central place for many non-commercial community activities including cultural and civic functions, and is not predominated by the need to support automobile-oriented retailing. The trade area for a B-1 District may include the entire Village and, for tourism oriented activities, the region.

(b) General Standards. All buildings and uses hereafter established or enlarged within the B-1 Central Business District shall conform to the following standards:

1. Except as conditional uses authorized under par. (d), no part of the first or ground floor of any building shall be used for residential purposes.
2. All business establishments shall be retail or service establishments dealing directly with customers. All goods produced on the premises shall be sold on or from the premises where produced.
3. Except where authorized as permitted accessory or incidental functions, all business, service, storage, and display of goods shall be conducted within completely enclosed buildings.
4. Parking requirements in the B-1 district may be satisfied, in whole or in part, by spaces available on adjacent public streets and alleys as determined at the time of site plan review to the extent the Commission determines that the number of on-site parking stalls otherwise required is unnecessary due to available public parking spaces.

(c) Permitted Uses. Only those permitted principal uses or accessory uses as designated with a "P" in the B-1 column of Table 15.11A shall be permitted within the B-1 District.

(d) Conditional Uses. Those uses designated with a "C" in the B-1 column of Table 15.11A shall be permitted only in accordance with a conditional use permit as provided in sec. 15.16.

(e) Dimensional Standards. Lots and buildings shall conform to the maximum and minimum dimensional standards established in the B-1 column of Table 15.11B.

(f) Performance Standards. All uses in the district shall conform to the performance standards set forth in §15.04(12).

[Am. 13-021, Eff. 10-10-13]

(3) B-2 GENERAL BUSINESS DISTRICT.

(a) Purpose. The B-2 District is intended to accommodate retail, service and other businesses which serve the needs of the surrounding neighborhood or community areas without creating any detrimental or deleterious effect on the use, value and enjoyment of adjacent or nearby residential property or on the safe and expeditious movement of traffic in the public streets. These uses are likely to rely on customers who access the property in automobiles, and therefore, require more significant accommodations to vehicular functions.

(b) General Standards. All buildings and uses hereafter established or enlarged within the B-2 General Business District shall conform to the following standards:

1. No building shall be used for residential purposes except as an accessory use by the owner or operator of the business premises.
2. All outside storage, which is permitted as an accessory use only, shall be enclosed by decorative screening as provided in section 15.05.

(c) Permitted Uses. Only those permitted principal uses or accessory uses as designated with a "P" within the B-2 column of Table 15.11A shall be permitted within the B-2 District.

(d) Conditional Uses. Those uses designated with a "C" in the B-2 column of Table 15.11A shall be permitted only in accordance with a conditional use permit as provided in sec. 15.16.

(e) Dimensional Standards. Lots and buildings shall conform to the maximum and minimum dimensional standards established in the B-2 column of Table 15.11B.

(f) Performance Standards. All uses in the district shall conform to the performance standards set forth in §15.04(12).

[Am. 13-021, Eff. 10-10-13]

(4) B-3 HIGHWAY BUSINESS DISTRICT.

(a) Purpose. The B-3 District is intended to provide for retail, office and other commercial businesses which benefit from direct access or visibility to heavily traveled major arterial roads or highways. This district is designed to support commercial activities which require large land areas, are oriented to the automobile and do not depend upon adjoining uses for reasons of comparison shopping and pedestrian traffic.

(b) General Standards. All buildings and uses hereafter established or enlarged within the B-3 Highway Business District shall conform to the following standards:

1. No building shall be used for residential purposes except as an accessory use by the owner or operator of the business premises and except that accommodations may be offered to the transient public by motels, hotels, and inns as part of commercial indoor lodging.
2. All outside storage, which is permitted as an accessory use only, shall be enclosed by approved screening as provided in sec. 15.05.

(c) Permitted Uses. Only those permitted principal uses or accessory uses as designated with a "P" within the B-3 column of Table 15.11A shall be permitted within the B-3 District.

(d) Conditional Uses. Those uses designated with a "C" in the B-3 column of Table 15.11A shall be permitted only in accordance with a conditional use permit as provided in sec. 15.16.

(e) Dimensional Standards. Lots and buildings shall conform to the maximum and minimum dimensional standards established in the B-3 column of the district standards table.

(f) Performance Standards. All uses in the district shall conform to the performance standards set forth in §15.04(12).

[Am. 13-021, Eff. 10-10-13]

(5) A-B AGRICULTURAL BUSINESS DISTRICT.

(a) Purpose. The A-B Agriculture-Business District is designed to provide for those uses which are commercial in nature; are associated with local agricultural production; require a rural location due to extensive land area needs or proximity of resources; and do not require urban services.

(b) Permitted Uses. Only those permitted principal uses or accessory uses as designated with a "P" within the A-B column of Table 15.11A shall be permitted within the A-B District.

(c) Conditional Uses. Those uses designated with a "C" in the A-B column of Table 15.11A shall be permitted only in accordance with a conditional use permit as provided in sec. 15.16.

(d) Dimensional Standards. Lots and buildings shall conform to the maximum and minimum dimensional standards established in the A-B column of Table 15.11B. The building height limitation stated therein shall not apply to agricultural buildings such as silos, bins, feed and seed storage facilities.

(e) Performance Standards. All uses in the district shall conform to the performance standards set forth in §15.04(12).

[Am. 13-021, Eff. 10-10-13]

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
SERVICE RETAIL				
Animal Grooming facilities [Cr. 12-09, Eff. 5-24-12]	P	P		
Banks and other financial institutions.	P	P		
Barbershops , beauty shops, and hairdressers.	P	P		
Bed and Breakfast establishments , as defined by §254.61(1), Stats. [Am. 13-021, Eff. 10-10-13]	P	P	P	
Day care centers. [Am. 12-09, Eff. 5-24-12]	P	P	C	
Duplicating , blueprinting, photocopying, addressing, mailing, mailing list and stenographic services.	P	P		
Funeral homes and undertaking facilities.	C	C		
Garment pressing establishments, hand laundries, hat cleaning and blocking shops and coin-operated dry cleaning establishments. [Am. 13-021, Eff. 10-10-13]	P	P	P	
General grocery stores, supermarkets, fruit and vegetable stores, meat and fish stores, dairy products stores, including ice cream stores and miscellaneous food stores.	P	P	P	
Hotels , motor hotels, motels and similar lodging facilities.		P	P	
Laundries and dry-cleaning establishments, including coin operated laundries, commonly called Laundromats.	P	P	C	

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Liquor stores. [Am. 13-021, Eff. 10-10-13]	P	P	P	
Photographic studios and commercial photography establishments.	P	P		
Places of Worship , including churches, synagogues, mosques, and meeting houses.	C	C	C	C
Radios, TV , high-fidelity sound equipment, electronic amplifier, stereophonic sound system, musical instrument or other such device sales, service, repair, testing, demonstration facility.	P	P		
Recreation, outdoor including amusement parks, drive-in theaters, golf courses open to the public, golf driving range, archery range, baseball batting cages, miniature golf courses, and similar commercial recreational facilities.		P	P	
Recreation, indoor including billiards and pool establishments, bowling alley, movie theater, fitness/exercise center, skating rinks, and similar commercial facilities.	P	P		
Restaurant , Sit down, substantially all patrons sit at tables inside, although some may carry out food.	P	P	P	
Restaurant , Carry out, predominant number of patrons carry out, although some inside seating is provided. Excludes drive thru type establishments. [Am. 13-021, Eff. 10-10-13]	P	P	P	
Restaurant , drive through type establishment [Cr. 13-021, Eff. 10-10-13]	C	P	P	
Restaurant , Concession establishments without seating, selling ice cream, popcorn, and comparable items as the primary use. [Am. 12-09, Eff. 5-24-12]	P			

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Restaurants , Sidewalk cafes with outdoor service [Am. 12-09, Eff. 5-24-12]	P	C	C	
Retail bakers , including those which produce some or all of the products sold on the premises, but not including establishments which manufacture bakery products primarily for sale through outlets located elsewhere or through home service delivery.	P	P		
Retail sales, soft goods including: antique and secondhand stores, bookstores (not including adult books), gift, novelty and souvenir shops, stationary stores, camera/photographic supply stores, candy nut or confectionary, clothing and shoe stores, department and variety stores, drug stores and pharmacies, electrical supply stores, florist shops, jewelry, watch and clock stores including repair services, news dealers and newsstands, sporting goods stores and bicycle shops, tobacco and smokers supplies stores, home furnishings and floor coverings stores, paint and wallpaper stores in buildings under 20,000 square feet in area.	P	P	P	
Retail sales, hard goods including home appliance and furniture stores, automotive accessory stores for the sale of items such as tires, batteries or other automotive accessories, farm supply and equipment dealers, furniture, home furnishings and floor coverings stores, garden supply and equipment stores, including power mowers, hardware stores, paint, glass and wallpaper stores in buildings under 20,000 square feet in area.		P	P	
Retail sales , Hard and Soft Goods as defined above in excess of 20,000 square feet of area.		C	C	
Reupholstery and furniture repair and interior design studios. [Am. 13-021, Eff. 10-10-13]	P	P		
Tailor shops , dressmaker shops, garment and shoe repair shops and shoe shine parlors	P	P		
Taverns , bars and other drinking places, except those associated with a restaurant or microbeverage production facility. [Am. 13-021, Eff. 10-10-13; Am. 23-08, Eff.]	P	P	P	

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Telephone and telegraph offices.	P	P	P	
SERVICE RETAIL, HEAVY				
Automobile repair shops , including shops for general mechanical repairs, automobile body repair, establishments primarily engaged in specialized services such as electrical, battery and ignition repair, radiator repair, glass replacement and repair, carburetor repair and wheel alignment service, and repair of tires, but not including establishments for rebuilding, retreading, recapping, vulcanizing, or manufacturing tires, and not including establishments exclusively for the painting of automobiles.	C	P	P	
Automobile washing , cleaning or polishing establishments, including self-service car washes.		P	P	
Automobile and truck , passenger, new and/or used, dealers.		P	P	
Commercial parking lots , parking garages, parking structures.	C	C	C	C
Gasoline service stations; provided that all gasoline pumps, storage tanks and accessory equipment must be located at least 10 feet from any existing or proposed street line and all storage tanks must be underground.		P	P	
Mini-warehouses , for the indoor storage of household items and other non-hazardous, non-perishable durable goods entirely within partitioned buildings with individual access to each partitioned area.	C	C	C	
Motorized bicycle , motorcycle, go-cart, snowmobile, aircraft or other motorized vehicles and components, sales, service, repair, testing, demonstration or other use of motorized bicycles, with the provision that such activity, when carried out in an establishment which also engages in the sale, repair or other operations with nonmotor-driven bicycles, shall constitute a separate and distinct use.		C	P	
Motorboat or other water craft, marine supply, water craft motors or components, sales, rental, service, repair, testing, demonstration facilities or establishment.		C	P	

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Motor freight operations , including truck terminals, transfer facilities, vehicle maintenance, cleaning and repair as a component of trucking operations, provided that any such operation is on the same lot as an ongoing permitted use in the zoning district, outdoor truck parking shall be limited to forty (40) truck-trailer combinations, vehicles shall not exceed fourteen thousand (14,000) pounds gross vehicle weight when located within one hundred fifty (150) feet of a residential district boundary line, and outdoor truck parking areas shall be positioned and/or screened in a manner that minimizes visibility from nearby land uses and public rights-of-way. [Cr.10-51; Eff. 11-12-10; Appl to ETZ 11-11; Eff. 4-14-11]				C
Piston-type engine or motor, or any type of device, appliance or equipment operated by such engine or motor sales, service, repair, testing, and/or demonstration establishment. Up to ten unenclosed vehicles awaiting sale or repair shall be allowed only within the limits and in accordance with any conditions established by conditional use permit. All other vehicles shall be stored within a building or otherwise enclosed as provided in Section 15.04(12)(j).		C	C	C
Plumbing , heating and air conditioning equipment dealers.	C	P	P	
Rental and leasing establishments providing floor sanding and waxing machines, ladders, scaffolds, tools, chairs or other furniture, or other types of equipment or similar items. [Am. 13-021, Eff. 10-10-13]	P	P	P	
Rental or leasing establishment for passenger automobiles, limousines or trucks without drivers, truck trailers, utility trailers, automobile passenger trailers, trailer home, mobile home or camper.		C	P	
Truck parking as an accessory use , when used in the conduct of a permitted business listed in this section. Outdoor truck parking shall be limited to not more than 20 truck-trailer combinations (40 in the A-B district), shall be limited to vehicles of not over fourteen thousand (14,000) pounds gross vehicle weight when located within one hundred fifty (150) feet of a residential district boundary line, and shall be positioned and/or screened in a manner that minimizes visibility from nearby land uses and public rights-of-way [Am.10-51; Eff. 11-12-10; Appl to ETZ 11-11; Eff. 4-14-11; Am. 16-39, Eff. 11-11-16]		C	C	C

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Wholesale merchandise establishment, in a commercial service building greater than 20,000 square feet in gross floor area. [Am. 13-021, Eff. 10-10-13]		P	P	
Wholesale merchandise establishment, in a commercial service building less than 20,000 square feet in gross floor area. [Cr. 13-021, Eff. 10-10-13]		C	C	
PROFESSIONAL SERVICES [Am. 08-14; Eff. 5-16-08]				
Accounting , auditing and bookkeeping firms or services.	P	P	P	
Advertising agencies, consumer credit reporting, news agencies, employment agencies.	P	P	P	
Computer services.	P	P	P	
Engineering and architectural firms or consultants.	P	P	P	
Insurance company, agent, broker, and service representative offices	P	P	P	
Law offices.	P	P	P	
Newspaper , periodical or book publishing and printing establishments.	C	C	P	
Offices , meeting places, and premises of professional membership associations; civic, social, and fraternal associations; business associations, labor unions and similar labor organizations; political; religious; charitable; or other non-profit membership organizations.	P	P	P	
Physician/Surgeon , dentist/dental surgeon, osteopathic physician, optometrist and chiropractor offices.	P	P	P	

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Real estate agents, brokers, managers and title companies.	P	P	P	
Scientific, or educational firms, agencies, offices or services, but not research laboratories or manufacturing operations.	P	P	P	
Veterinarians' offices and facilities. [Am. 13-021, Eff. 10-10-13]	P	P	P	P
AG RELATED USES				
Agricultural byproducts , sales and storage				C
Agricultural machinery and equipment sales, service and repair				P
Agricultural supply stores, including distribution, mixing, blending and storage of feeds, seeds and fertilizers				P
Greenhouses and nurseries.		P	P	P
Hauling of dead livestock				C
Kennels and boarding facilities for domestic animals.		C	C	C
Laboratories , plant genetic and agricultural-related experimentation				C
Processing and preserving of natural agricultural products, fruits and vegetables				P
Riding stables and riding schools. [Cr. 11-10; Eff. 4-16-11; Am. 13-021, Eff. 10-10-13]				C

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Seasonal flower or vegetable plants, landscaping supply or similar produce sales and seasonal sales of cut trees for holiday decorations within or adjacent to a temporary structure, and for a duration not to exceed 60 days in a calendar year.	C	P	P	P
Seasonal vegetable, fruit, or other farm product sales, but not other types of products or merchandise within a permanent sales establishment. [Am. 11-10; Eff. 4-16-11]	C	P	P	P
Small-scale Methane Generating Equipment and alcohol distilling equipment designed for use in farming operations, sales and service.				P
Stockyards and livestock auction facilities				C
Trucking services limited to livestock and agricultural commodities				P
Wind driven electrical generating equipment , sales and service				P
Year-round lawn and garden material , supply, and/or equipment sales, service and repair. [Am.10-51; Eff. 11-12-10; Appl to ETZ 11-11; Eff. 4-14-11; Am. 13-021, Eff. 10-10-13]		P	P	P
MISCELLANEOUS				
Accessory building, single , provided such building is used solely for the purpose of storing inventory, goods or equipment used in the ordinary course of the business conducted in the principal building on the premises. [Am. 13-021, Eff. 10-10-13]	P	P	P	P
Accessory buildings , multiple, provided such buildings are used solely for the purpose of storing inventory, goods or equipment used or sold in the ordinary course of the business conducted in the principal building on the premises.	C	C	C	C

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Convention Centers or exposition centers, buildings or grounds [Am. 11-10; Eff. 4-16-11]	C	C	C	
Communications towers and antennas.	C	C	C	C
Government , local municipal facilities, libraries, educational institutions,, police and fire stations and post offices.	P	P	P	
Hospital or medical center, long term nursing care facility		C	C	
Microbeverage production facility , occupying not more than 20,000 square feet indoors; producing no more than 2,000 barrels per year on site if a microbrewery or 10,000 gallons per year on site if a microdistillery, microwinery/small winery, or microroastery/small batch roaster; and having no outdoor storage aside from grain or bean silos compatible with the principal building's design and color. [Cr. 23-08, Eff.]	C	P	P	
Mobile home parks			C	
Parking lots , parking garages, or parking structures, public.	P	P	P	
Parks and playgrounds.	C	C	C	
Public transportation passenger stations , taxicab company offices, taxicab stands, but not vehicle storage lots or garages.	P	P	P	
Residential units , above the ground floor of a commercial use building. [Am. 13-021, Eff. 10-10-13]	P			
Residential units , on the ground floor, for owner/operator of the premises as an accessory use. [Am. 13-021, Eff. 10-10-13]	P	C	C	C
Residential buildings (multi-family) , of not less than 600 square feet for two bedroom units and not less than 1000 square feet for three bedroom units, if provided with on-site enclosed or underground parking. More than one principal building may be permitted on a lot.	C			

TABLE 15.11A BUSINESS DISTRICT USE LIST

[Am. 04-13; Eff. 5-20-04; Am. 09-05, Eff. 319-09; Am 15-036; Eff. 7-30-15]

NAME/DESCRIPTION OF USE	B-1	B-2	B-3	A-B
Small solar or wind energy system subject to Section 15.04(24) [Cr. 10-04, Eff. 2-4-10]	P	P	P	P
Temporary campground associated with special event, subject to Section 15.16(10). [Cr. 10-04, Eff. 2-4-10]	NP	C	C	C

TABLE 15.11B BUSINESS DISTRICT DIMENSIONAL STANDARDS

DESCRIPTION	B-1	B-2	B-3	A-B
Minimum Lot Width (Lineal. Ft.) [Am. 08-14; Eff. 5-16-08]	60	100	150	100
Minimum Lot Area (Sq. Ft.)	6,000	15,000	30,000	20,000
Minimum Lot Area/D.U. (Sq. Ft.)	1,050	15,000	30,000	20,000
Surface Parking within Minimum Front Yard Setback (Ft.) [Am. 13-021, Eff. 10-10-13; Am. 16-45, Eff. 11-24-16]	If approved by the Planning & Zoning Commission or Joint Committee, viat the site plan approval process.	If approved by the Planning & Zoning Commission or Joint Committee, viat the site plan approval process.	If approved by the Planning & Zoning Commission or Joint Committee, viat the site plan approval process.	If approved by the Planning & Zoning Commission or Joint Committee, viat the site plan approval process.
Floor Area/D.U. (Sq. Ft.)	400 studio 800 1 bdrm 1,100 2+ bdrm	400 studio 800 1 bdrm 1,100 2+ bdrm	400 studio 800 1 bdrm 1,100 2+ bdrm	
Minimum Green Space (%) Utilizing the combination of adjacent public open space and common space, and with a Stormwater management plan approved by the Village if in the Village limits.	15% (Less than 15%, minimum of 5% permitted as a conditional use)	15%	15%	40%

Minimum Principal and Accessory Building Setbacks				
Front and Street Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	10 (Less than 10 ft. permitted as a conditional use)	25 (Less than 25, minimum of 15 permitted as a conditional use)	25 (Less than 25, minimum of 15 permitted as a conditional use)	50
Interior Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	10 (Less than 10 ft. permitted as a conditional use)	10	10	10
Rear Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	10 (Less than 10 ft. permitted as a conditional use)	10	10	10
TABLE 15.11B BUSINESS DISTRICT DIMENSIONAL STANDARDS				
DESCRIPTION	B-1	B-2	B-3	A-B
Maximum Building Height (Ft.) – Principal [Am. 08-14; Eff. 5-16-08]	45	65	80	40
Maximum Building Height (Ft.) - Accessory	15	25	25	30
Maximum Accessory Building Size	150 sq. ft.	650 sq. ft.	650 sq. ft.	50% of principal building size
Maximum Driveway Opening -At Property Line	26	40	40	40
Maximum Driveway Opening -At Curb Line	32	46	46	46
Minimum Building Exterior Decorative Material Required [Am. 11-10; Eff. 4-16-11]	35%	35%	35%	N/A
Minimum Landscaping Points Standard: See Section 15.06 and Table 15.06A for landscaping requirements. [Am. 11-10; Eff. 4-16-11]				

15.113. REC RECREATIONAL DISTRICT.

(1) PURPOSE. The REC Recreational is intended to accommodate land uses serving the commercial and natural recreational needs and interests of tourists or the local population. This district provides an environment that does not allow residential uses, commercial uses that are not recreation-based, or industrial uses, which are instead allowed in other zoning districts.

(2) PERMITTED USES.

- (a) Campgrounds, per the provisions in §15.05(11).
- (b) Golf courses, golf driving ranges, and clubhouses.
- (c) Parks, natural areas, trails, playgrounds, public educational facilities, and similar uses.
- (d) Recreational vehicle and equipment sales, rental, and repair services.
- (e) Sale of bait for fishing.
- (f) Storage of recreational vehicles.
- (g) Horse boarding stable, riding stable, and the retail sale of items intended for equestrian activities.
- (h) Uses incidental to the operation of any permitted use.
- (i) Utility services.
- (j) Other indoor recreational use not otherwise listed, but in no case including an adult entertainment use.

(3) CONDITIONAL USES.

- (a) Game management.
- (b) Outdoor shooting range.
- (c) Other outdoor recreational use not otherwise listed.
- (d) Public utility and public service use.
- (e) Satellite earth station, commercial communications tower, or commercial communications antenna.

(4) LOT AREA AND WIDTH REQUIREMENTS. A lot shall be not less than 150 feet in width at the building setback line and have an area of not less than one acre.

(4) HEIGHT REGULATIONS. No building shall exceed 35 feet in height.

(5) MINIMUM YARD REQUIREMENTS. For buildings, minimum yards (setbacks) shall be as follows:

- (a) Front yard—50 feet
- (b) Side yard—25 feet
- (c) Rear yard—50 feet

(6) OFF STREET PARKING. Off-street parking space shall be provided in accordance with the provisions of §15.07.

(7) LANDSCAPING STANDARDS. Per §15.06.

(8) DRIVEWAY STANDARDS. Driveway openings shall not exceed 45 feet at the lot line and 50 feet at the curb or street pavement line.

15.115 OFFICE AND RESEARCH DISTRICT.

[Renum. from 15.19 and Am. 13-021, Eff. 10-10-13; Am. 20-13, Eff. 5-15-20]

(1) PURPOSE. The O-R Office and Research District is established to prioritize administrative and corporate offices, research and development activities, and laboratories, all of which are integrated in an efficiently and attractively designed development. Also, other business and professional offices, support uses typically found in an office/research park setting, and compatible light industrial and assembly uses are allowed. The O-R District is intended to be located primarily on and near arterial and collector streets to provide for good accessibility to these uses.

(1) PURPOSE. The O-R Office and Research District is established to prioritize administrative and corporate offices, research and development activities, and laboratories, all of which are integrated in an efficiently and attractively designed development. Also, other business and professional offices, support uses typically found in an office/research park setting, and compatible light industrial and assembly uses are allowed. The O-R District is intended to be located primarily on and near arterial and collector streets to provide for good accessibility to these uses.

(3) PERMITTED USES. Only those permitted principal uses or accessory uses as designated with a "P" in Table 15.115 A shall be permitted within the O-R District.

(4) CONDITIONAL USES. Those uses designated with a "C" in Table 15.115 A shall be permitted only in accordance with a conditional use permit as provided in §15.16.

(5) BULK STANDARDS. No structure or lot shall be developed, used or occupied unless it meets the minimum lot width, lot area, yard requirements, height limits, and other dimensional standards as set forth in Table 15.115 B.

(6) SITE PLAN REVIEW AND POSSIBLE EXEMPTION. Any developer or owner of lands zoned or proposed to be zoned O-R may develop its own standards to regulate the development of a property and create an architectural review or development committee to administer such standards, provided such standards, categories of committee membership, and development review process shall be approved by the Village Board. In developing the standards, due consideration shall be given to pedestrian circulation, preservation and linkage of open space areas, location of future buildings, and the clustering of amenities to provide for a planned integrated development. Village Board approval of such standards and an architectural review or development review committee may, at the discretion of the Village Board, obviate the need for subsequent Village site plan review under §15.05.

**TABLE 15.115 A
OFFICE AND RESEARCH DISTRICT**

[Am. 2012-18, Eff. 9-14-12]

Key: P = Permitted Use C = Conditional Use

NAME/DESCRIPTION OF USE	O-R
SERVICE AND RETAIL USES	
Banks and other financial institutions.	P
Day care centers.	P
Health clubs , fitness centers, and similar facilities.	P
Hotels , motor hotels, motels and similar lodging facilities.	C
Recreation, indoor including billiards and pool establishments, bowling centers, movie theaters, skating rinks, and similar commercial facilities, but not including health clubs, fitness centers, and similar facilities	C
Restaurants and other eating places, predominant number of patrons sit down at restaurant to eat, although some may carry out food, not including drive-in and drive-through type establishments.	C
Retail sales, soft goods , in individual retail occupancies not exceeding 5,000 square feet in area and in building having not more than 20,000 square feet devoted to retail sales, with uses including but not limited to: antique and secondhand stores, bookstores (not including adult books), gift, novelty (not including adult novelties) and souvenir shops, stationery stores, camera/photographic supply stores, candy nut or confectionary, clothing and shoe stores, department and variety stores, drug stores and pharmacies, electrical supply stores, florist shops, jewelry, watch and clock stores including repair services, news dealers and newsstands, sporting goods stores and bicycle shops, tobacco and smoker's supplies stores, home furnishings and floor coverings stores, paint and wallpaper stores.	P
Taverns , bars and other drinking places.	C
Telephone and telegraph offices.	C

PROFESSIONAL SERVICES AND RESEARCH USES	
Accounting , auditing and bookkeeping firms or services.	P
Advertising agencies, consumer credit reporting, news agencies, employment agencies.	P
Computer services, data processing and telecommunication centers.	P
Engineering and architectural firms or consultants.	P
Insurance company, agent, broker, and service representative offices.	P
Law offices.	P
Newspaper , periodical or book publishing and printing establishments.	C
Offices , including those of professional membership associations; civic, social, and fraternal associations; businesses and business associations, labor unions and similar labor organizations; political; religious; charitable; or other non-profit membership organizations. [Am. 20-13, Eff. 5-15-20]	P
Physician/Surgeon , dentist/dental surgeon, osteopathic physician, optometrist and chiropractor offices.	P
Real estate agents, brokers, managers and title companies.	P
Scientific firms, agencies, offices or services.	P
Research and development activities , and testing laboratories, provided no manufacturing or the fabrication, assembly or production of articles, other than prototypes or models used of experimentation or research, shall be allowed.	P
Veterinarian's offices and facilities for domestic animals.	C

MANUFACTURING/INDUSTRIAL USES

Production, or processing, cleaning, servicing, testing or repair of materials, goods or products, produced or assembled manually or by a light industrial process using only light machinery; conducted entirely within enclosed, substantially constructed buildings (except for loading and unloading); not including outdoor storage of raw materials or manufactured products; and limited to the following uses, products, components, or circumstances:

- Electronic and electrical products and instruments, such as transistors, semiconductors, small computers, scanners, monitors and compact communication devices,
- High technology products related to the fields of physics, oceanography, astrophysics, metallurgy, chemistry and biology,
- Laser technology, radiology, X ray and ultrasound products, manufacturing and assembly;
- Medical and dental supplies,
- Optical, fiber optical and photographic products and equipment;
- Orthopedic and medical appliances, such as artificial limbs, brace supports and stretchers,
- Scientific and precision instruments and components, including robotics;
- Products related to process design, process simulation, software development, and safety engineering.
- Specific products not listed above but similar in character.

P

Products or material assembly related to energy and environmental or to telecommunications and satellite applications, provided that production is conducted entirely within enclosed, substantially constructed buildings.

[Am. 13-021, Eff. 10-10-13; Am. 20-13, Eff. 5-15-20]

C

Small-scale products (finished weight not exceeding fifty pounds) related to the resource industries of agriculture and food production, forestry, petrochemicals and mining.

C

Wholesale, warehouse or distribution centers without outdoor storage. (Does not include storage or distribution centers for bottled gas, butane, fuel oil or solid fuels).

[Am. 13-021, Eff. 10-10-13]

MISCELLANEOUS USES

Communications antennae.

C

Convention Centers or exposition centers, buildings or grounds.

C

Detached Garage shall only be used for the parking of motor vehicles used by the business on the premises.	C
Government , local municipal facilities, libraries, educational institutions, police and fire stations and post offices.	P
Hospital , long term nursing care facility, or other health care facility involving overnight stays.	C
Indoor Civic, Cultural & Institutional (Incl. Educational and Training Centers & Emergency Services).	P
Medical, dental, optical, and similar clinics (not including overnight stays).	P
Microbeverage production facility, occupying not more than 20,000 square feet indoors; producing no more than 2,000 barrels per year on site if a microbrewery or 10,000 gallons per year on site if a microdistillery, microwinery/small winery, or microroastery/small batch roaster; and having no outdoor storage aside from grain or bean silos compatible with the principal building's design and color. [Cr. 23-08, Eff.]	C
Parking lots , parking garages, or parking structures.	P
Heliports .	C
Public transportation passenger stations, taxicab company offices, taxicab stands, but not vehicle storage lots or garages.	C
Outdoor Recreational/Open Space (Public/ Private) parks and playgrounds.	C
Utilities/Transportation .	C

TABLE 15.115 B
OFFICE AND RESEARCH DISTRICT BULK STANDARDS

[Am. 12-18, Eff. 9-13-12]

DESCRIPTION	O-R
Minimum Lot Width (Lineal Ft.)	125
Minimum Lot Area (Sq. Ft.)	40,000
Maximum Floor Area Ratio	1.5
Maximum Building Coverage	0.5
Surface Parking within any minimum required front yard [Am. 16-45, Eff. 11-24-16]	If approved by the Planning and Zoning Commission or Joint Committee, via the site plan approval process, or as otherwise allowed under alternative standards approved by the Village Board under Section 15.115(6).
Minimum Green Space (%) Utilizing the combination of adjacent public open space and common space, and with a stormwater management plan approved by the Village if in the Village limits. [Am. 13-021, Eff. 10-10-13]	20%
Minimum Principal Building Setbacks	
Front and Street Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	25
Interior Side Yard (Ft.) [Am. 13-021, Eff. 10-10-13]	10
Rear Yard (Ft.)	10
Maximum Building Height (Ft.) or Number of Stories – Principal Building	80 feet or 6 stories, whichever is greater
Maximum Driveway Opening – At Property Line	40

Maximum Driveway Opening – At Curb Line	46
Minimum Decorative Exterior Material Required	35%
Minimum Landscaping Points Standard: See Section 15.06 and Table 15.06A for landscaping requirements.	
per 100 Linear Ft. of Building Foundation	50
per 1000 sq. ft. of Gross Floor Area	20
per 100 Linear Ft. of Street Frontage	50
per 10,000 sq. ft. of Paved Area/ or 20 stalls	90

15.12 INDUSTRIAL DISTRICTS.

(1) PURPOSE. The Industrial districts are designed to provide for the grouping of compatible industries. These districts are intended to preserve lands for industrial and allied uses and to prohibit residential and other incompatible uses. All industrial uses are subject to the performance standards in Section 15.04(12).

The M-1 Restricted Industrial District is intended for industrial uses which can be located in close proximity to commercial uses, and in locations convenient to residential areas, without adverse impacts on such areas. The district regulations are designed to permit manufacturing, wholesaling, and warehousing activities and be conducive to the development and protection of offices, research and development institutions, and certain specialized manufacturing establishments, all of a non-nuisance type. Some retail uses are permitted which service the industrial area or which do not depend upon intensive visits of retail customers.

The M-2 General Industrial District is intended for most types of industrial operations, which may have moderate impacts on surrounding land uses and transportation facilities. This District accommodates areas that are predominantly industrial in character (i.e., industrial parks); manufacturing, transportation, contractor, wholesaling, and related operations; and a limited range of retail, service, and other compatible uses.

The M-3 Intensive Industrial District is designed primarily for manufacturing, assembling, or fabricating activities including large scale or specialized operations whose external effects are likely to be felt to some degree by surrounding districts. Operations within this district may generate substantial noise, smoke, dust, heat, cold, humidity fumes, particulate matter, electrical disturbance, radiation emission, glare, night, illumination, vibrations, smells, risk of spills, fires or explosions and often require conditional use permit approval.

[Am. 16-005, Eff. 3-10-16; ETZ 16-25; Eff. 9-30-16]

(2) GENERAL PROVISIONS. All properties in the M-1, M-2 or M-3 industrial districts shall comply with the following requirements.

(a) Allowable Uses are expressed in categories. The initial determination of whether a use (or a portion of a use) fits within a particular category as described below is to be made by the Zoning Administrator. Persons objecting to this initial determination may appeal the determination to the Board of Zoning Appeals. A use or operation within these districts may have several segments or components. Some of these segments may be classified as permitted use segments and others as conditional use segments. Where this is the case, conditional use approval shall be required and shall extend only to the portion of the operation that requires conditional use approval. Conditional use approval is required at any point after initial construction and occupancy on a site when the use or operation changes so as to bring it within the scope of sec. 15.16.

The uses identified with a "P" within Table 15.12A, shall be permitted in accordance with the specified parameters. The uses identified with a "C" within Table 15.12A are allowed with an approved conditional use permit.

(am) Mineral Extraction Operations. Mineral extraction operations may be authorized in the ETZ Area within the M-2 and M-3 districts by approval of a conditional use permit. All mineral extraction operations are subject to §15.04(12) and §15.16(4). [Cr. 06-06; Eff. 6-9-06]

(b) Similar and Compatible Uses. Other uses similar and compatible to those allowed as permitted uses in accordance with the conditions specified. The determination of whether a use is similar and compatible shall be made in accordance with this chapter.

(c) Accessory Uses and Temporary Uses. Uses which are incidental to the operation of an approved use are permitted if in compliance with sec. 15.16. Incidental is defined as an integral part of the principal use; e.g. outdoor storage would be incidental to a lumber yard.

(d) Dimensional Standards. Lots and buildings shall conform to the minimum dimensional standards as provided in Table 15.12B.

(e) Landscaping Requirements. All uses shall conform to the applicable requirements for landscaping set forth in sec. 15.06.

(f) Parking and Loading Requirements. All uses shall conform to the applicable requirements for off-street parking and loading set forth in sec. 15.07.(4) Parking of trucks as an accessory use, when used in the conduct of a permitted business listed hereinafter, shall be limited to vehicles of not over four (4) tons gross vehicle weight when located within one hundred fifty (150) feet of a residence district boundary line. Parking and loading areas shall have a permanent, durable, and dustless surface, and be graded as to prevent the accumulation of surface water.

(g) Sign Requirements. All uses shall conform to the applicable requirements for signs set forth in sec. 15.08.

(h) General Standards. All buildings and uses thereafter established or enlarged shall conform to the following standards:

1. No part of any building or property shall be used for residential purposes except where permitted as an accessory use; and
2. Outdoor vending machines for the sale or display of merchandise shall not occupy an aggregate ground area of more than sixteen (16) square feet; and
3. All industrial, wholesale, warehouse, business, service or retail activities shall be conducted within completely enclosed buildings. Accessory or incidental functions such as outside storage and parking are subject to approval as provided in sec. 15.16; and shall be completely screened as described in secs. 15.05 and 15.06.
4. All industrial, wholesale, warehouse, business, service or retail activities shall comply with the performance standards set forth in §15.04(12).

[Am. 13-021, Eff. 10-10-13]

(i) Setback Provisions.

1. The principal building setbacks from a property line adjacent to a residential district shall be equal to the height of the building or the minimum setback provided in Table 15.12B, whichever is greater.
2. Subpar. 1 shall not apply to increase the setback distance required by Table 15.12B due to the height of stacks, tanks, bulkheads, or ventilating equipment,

including towers enclosing the same and parapets not more than three (3) feet in height.

3. The minimum distance between any points of any two structures on an individual site shall be at least ten feet or the minimum distance set forth in the state building code fire wall regulations, whichever is greater.
4. Exception: Minimum side or rear setbacks prescribed for the M-1, M-2 and M-3 districts within the Village may be reduced or waived by conditional use permit issued in accordance with sec. 15.16 to allow for the interconnection of two or more buildings on different lots by the construction of an enclosed walkway, mechanical conveyance system, skywalk or similar facility designed to allow convenient movement of persons, materials, products or equipment from one building to another, provided that the following conditions are met:
 - a. If the parcels are not under common ownership, appropriate easements, joint use agreements, or similar agreements are in effect authorizing the use of the entire connecting structure by the occupants of at least one of the buildings.
 - b. No manufacturing, assembly, office, clerical, storage or other functions, other than the conveyance of persons, materials, products or equipment shall be conducted within the normal setback area.
 - c. Such other conditions as are prescribed pursuant to sec. 15.16.

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
INDUSTRIAL AND MANUFACTURING USES			
[Am. 16-005, Eff. 3-10-16]			
Mineral Extraction (ETZ Area only)		C	C
Production, or processing, cleaning, servicing, testing or repair of materials, goods or products, limited to the following uses, products, components, or circumstances: - Electronic and electrical products and instruments, such as transistors, semiconductors, small computers, scanners, monitors and compact communication devices, - High technology products related to the fields of physics, oceanography, [cont'd] astrophysics, metallurgy, chemistry and biology, - Laser technology, radiology, X ray and ultrasound products, manufacturing and assembly; - Medical and dental supplies, - Optical, fiber optical and photographic products and equipment; - Orthopedic and medical appliances, such as artificial limbs, brace supports and stretchers, - Scientific and precision instruments and components, including robotics; - Products related to process design, process simulation, software development, and safety engineering.	P	P	P
Production of specific products not listed above but similar in character and which are produced or assembled manually or by a light industrial process by virtue of the use of only light machinery; conducted entirely within enclosed, substantially constructed buildings; which do not include the use of the open area around such buildings for storage of raw materials or manufactured products, or for any industrial purpose other than loading and unloading operations.	P	P	P
Small-scale products (finished weight not exceeding fifty pounds) related to energy and environmental or to telecommunications and satellite applications.	P	P	P
Production, processing, cleaning, servicing, testing or repair of materials, goods or products, involving the following uses, products, components, or circumstances: Cameras and other photographic equipment; Ceramic products, such as pottery,			

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
figurines and small glazed tiles; Cosmetics and toiletries, pharmaceutical products, perfumes, and perfumed soaps; small electrical household appliances, such as lighting fixtures, irons, fans and toasters; Electrical equipment assembly, such as home radio and television receivers and home movie equipment, but not including electrical machinery; Electrical supplies, manufacturing and assembly, such as wire and cable assembly, switches, lamps, insulation and dry cell batteries. [Am. 13-021, Eff. 10-10-13]	P	P	P
Products from the following previously prepared materials: bone, canvas, cellophane, cloth, cork, feathers, felt, fiber, fur, glass, hair, horn, leather, paper, plastic, precious and semiprecious stones, rubber, shell, wood (but not including a planing mill) and yarn. [Am. 13-021, Eff. 10-10-13]	P	P	P
Products related to material research and development in such areas as prepared glass, ceramics, carbon fiber, metals, textiles, polymers, plastics, chemical foams and inorganic chemicals such as liquid crystals, and synthetic fuels. [Am. 13-021, Eff. 10-10-13]	P	P	
Products (finished weight exceeding fifty pounds or sold in bulk) related to energy and environmental or to telecommunications and satellite applications. [Am. 13-021, Eff. 10-10-13]	P	P	
Products (finished weight exceeding fifty pounds or sold in bulk) related to the resource industries of agriculture and food production, forestry, petro-chemicals and mining. [Am. 13-021, Eff. 10-10-13]	P	P	
Crematories	C	C	C
Foundries			C
Grain elevators and storage			C

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
Incinerators			C
Laboratories – research, development and testing, including testing facilities and equipment, and manufacturing and fabrication of products in conjunction with such research or development.	C	P	P
Laundries and dry cleaning establishments, industrial and retail (with a central plant serving more than one retail outlet) including supply services such as linens, uniforms and diapers. [Am. 13-021, Eff. 10-10-13]	C	P	P
Pilot plants or other facilities for the testing of manufacturing, processing or fabrication methods, or for the testing of products or materials. [Am. 13-021, Eff. 10-10-13]	C	C	P
Printing and publishing establishments, including but not limited to those for print media, clothing, and packaging. [Am. 16-05, Eff. 3-10-16]	C	P	P
Microbeverage production facility [Cr. 23-08, Eff.]	P	P	P
TRANSPORTATION RELATED USES			
Air freight terminals	C	C	P
Automobile painting and undercoating services	C	C	P
Automobile/truck storage facilities, subject to the temporary vehicle storage requirements of Section 15.04(12)(j)			C

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
Automobile, truck and motorcycle, rental, sales and service, subject to the temporary vehicle storage requirements of Section 15.04(12)(j) [Am. 13-021, Eff. 10-10-13]	P		
Automobile accessory stores	P		
Automobile service station; for the retail sale of and dispensing of fuel, lubricants, tires batteries, accessories, and diagnostic centers, repair garages, tire installation, vehicle washes and minor services customarily incidental thereto with limited outdoor storage (up to ten vehicles).	C	C	
Automobile driving schools.	P		
Bus sales and maintenance shops.	C	C	P
Bus and railroad passenger stations, terminals, turnarounds, and lots.	C	C	
Heliports	C	C	C
Mobile home or garage dealers with displays	C	C	C
Motor freight operations, including truck terminals, transfer facilities, vehicle maintenance, cleaning and repair as a component of trucking operations.		C	C
Parcel delivery and pick up services and facilities.	C	C	P
Rail freight terminals, switching yards, shops and roundhouses.	C	C	C

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
Recreational vehicle sales and service including campers, snowmobiles, trailers and boats.	C	C	C
Sales, retail or wholesale, and servicing of construction equipment and farm equipment.		C	C
Semi-tractor truck/trailer sales, rentals and service.		C	C
Taxicab garages. [Am. 13-021, Eff. 10-10-13]	C	P	
Towing services, subject to the temporary vehicle storage requirements of Section 15.04(12)(j).	C	C	P
SERVICE RELATED USES			
Adult Oriented Establishments.		C	P
Bars/cocktail lounges, including dancing and/or live entertainment, but not including Adult Oriented Establishments. [Am. 13-021, Eff. 10-10-13]	C	C	C
Bowling centers [Am. 13-021, Eff. 10-10-13]	C	C	

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
Business services such as: commercial art and photography, computer and data processing, photo-finishing and equipment rental and leasing.	P	P	
Cabinetmaking shops.	P	P	
Construction firm offices, shops, storage areas, display rooms. [Am. 13-021, Eff. 10-10-13]	P	P	P
Contractor's equipment storage yards		C	C
Daycare and group housing	C		
Electrical shops	P	P	
Exterminating and fumigating shops	C	P	P
Furniture cleaning, upholstering, and repair.	P	P	P
Greenhouses and nurseries, retail sales or wholesale.	P		
Hospitals and other medical care complexes.	C	C	
Hotels, motels, including "bed and breakfast" facilities.	C	C	C
Landscape contractor offices with outdoor storage.		C	C

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
Landscape contractor offices with indoor storage [Am. 13-021, Eff. 10-10-13]	P	P	P
Lawnmower sales and repairs.	P		
Lumber companies and/or yards, building material/home supplies, sales, and service.	C	C	C
Lumber and building material yards selling on a wholesale basis or selling predominantly to building contractors with most deliveries made by the yard to off-site destinations.		C	C
Machine shops.	C	P	P
Machinery storage yards.			C
Ornamental ironworks shops.	P	P	P
Packing and crating services.	P	P	P
Plumbing, heating, water softener, and fixture supplies sales and service. [Am. 13-021, Eff. 10-10-13]	P	P	
Recreation facility, indoor, including amusements, interactive sports, weight training/exercise facility, tennis/racquetball courts, indoor ice or roller skating rinks or similar activities.	C	C	
Recreation facility, outdoor, including sports complexes.	C	C	

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
Refrigeration shops.	C	P	
Restaurant, Sit down, where substantially all patrons sit at tables inside, although some may carry out food.	C	C	C
Restaurant, Carry out, where the predominant number of patrons carry out, although some inside seating is provided. Includes drive thru type establishments.	C	C	C
Retail catalog sales and mail order stores.	P	P	
Retail outlet stores, accessory to a manufacturing, wholesale or distribution establishment.	P	P	P
Retail sales or services including health and recreation facilities and eating and drinking places, that exclusively or predominantly serve businesses and employees of the industrial area and/or are a minor part of the total parcel usage by area, volume or similar measures.	P	P	P
Sewer and septic tank sales, cleaning and rodding service.	C	C	
Sheet metal shops.	P	P	P
Sign contractors. [Am. 13-021, Eff. 10-10-13]	C	P	P
Sporting goods, including bicycle sales and repair shops.	P		
Stone companies, construction and landscaping related, not including quarries.		C	C

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
Taxidermists.	P		
Trade and vocational schools. [Am. 13-021, Eff. 10-10-13]	C	P	P
Welding shops.		P	P
Window cleaning services.	P	P	P
WAREHOUSE OR DISTRIBUTION RELATED USES			
Mini-warehouses	C	C	C
Wholesale, warehouse or distribution centers without outdoor storage. (Does not include storage or distribution centers for bottled gas, butane, fuel oil or solid fuels).	P	P	P
Wholesale, warehouse, or distribution centers with outdoor storage. Includes facilities which handle bottled gas, butane, fuel oil or solid fuels and facilities with outdoor storage.		C	C
UTILITY/GOVERNMENT RELATED USES			
Electric power production and substations.	C	C	C
Fire and police stations.	P	P	P

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
Highway maintenance shops and yards, with limited storage of asphalt, salt and other bulk materials.	C	C	C
Natural gas transmission and distribution.	C	C	C
Parking lots, public; park and ride lots.	C	C	C
Power Plants.			C
Postal Services. [Am. 13-021, Eff. 10-10-13]	C	P	P
Pumping stations, water towers, water works, or wells; public.	C	C	C
Salvage recycling centers, subject to applicable standards in this chapter including but not limited to those in Section 15.16(10) [Cr. 20-27, Eff. 12-25-20]			C
Solid waste recycling centers, subject to applicable standards in this chapter including but not limited to those in Section 15.16(10) [Cr. 20-27, Eff. 12-25-20]		C	C
Telephone exchanges, telephone transmission equipment, buildings and service yards. [Am. 13-021, Eff. 10-10-13]	C	P	P
Towers associated with microwave relay, communications, radio and television and radar related facilities	C	C	C
Waste material storage, processing, treatment or disposal, not including solid waste or salvage recycling centers. [Am. 20-27, Eff. 12-25-20]			C

TABLE 15.12A
INDUSTRIAL DISTRICT USES

[Am. 09-05, Eff. 3-19-09; Am. 13-021, Eff. 10-10-13; Am. 20-27, Eff. 12-25-20]

DESCRIPTION	M-1	M-2	M-3
MISCELLANEOUS USES			
Agricultural buildings and structures as an accessory use.	P	P	
Convention Centers or exposition centers, buildings or grounds.	C	C	C
Cultivation of field and garden crops as an accessory use.	C	C	C
Farms, includes crops and animals, as an accessory use.	C	C	C
Offices for business or professional services, associations, financial institutions, personnel training centers or call centers and telecommunication centers.	P	P	
Outdoor storage of bulk materials as an accessory use.		C	C
Residence of the proprietor, caretaker, or watchman as an accessory use.	C	C	C
Small solar or wind energy system, subject to Section 15.04(24). [Cr. 10-04, Eff. 2-4-10].	P	P	P
Zero lot line construction.	C	C	

TABLE 15.12B
INDUSTRIAL DISTRICT DIMENSIONAL STANDARDS

BULK STANDARDS	M-1	M-2	M-3
Minimum Lot Width (Lineal Ft.)	100	100	150
Minimum Lot Area (Sq. Ft.)	25,000	30,000	40,000
Principal and Accessory Building Setbacks			
Minimum Front and Street Side Yard Setback (Ft.) [Am. 10-04, Eff. 2-4-10; Am. 13-021, Eff. 10-10-13]	30 (Less than 30, minimum of 20 permitted as a conditional use)	30	40
Minimum Interior Side Yard Setback (Ft.) [Am. 10-04, Eff. 2-4-10; Am. 13-021, Eff. 10-10-13]	15 (Less than 15, minimum of 10 permitted as a conditional use)	15	20

TABLE 15.12B
INDUSTRIAL DISTRICT DIMENSIONAL STANDARDS

BULK STANDARDS	M-1	M-2	M-3
Minimum Rear Yard Setback (Ft.) [Am. 10-04, Eff. 2-4-10; Am. 13-021, Eff. 10-10-13]	25 (Less than 25, minimum of 20 permitted as a conditional use)	25	30
Maximum Principal Building Height (Ft.) [Am. 13-021, Eff. 10-10-13]	45	65	80
Maximum Accessory Building Height (Ft.) [Am. 10-04, Eff. 2-4-10; Am. 13-021, Eff. 10-10-13]	25	25	25
Minimum Green Space (%) - Utilizing the combination of adjacent public open space and common space and with a stormwater management plan approved by the Village if in the Village limits. [Am. 10-04, Eff. 2-4-10]	20% (Less than 20%, minimum of 10% permitted as a conditional use)	20% (Less than 20%, minimum of 10% permitted as a conditional use)	20% (Less than 20%, minimum of 10% permitted as a conditional use)

Minimum Building Decorative Material Required [Am. 11-10; Eff. 4-16-11]	20%	15%	15%
Maximum Driveway Opening at Property Line (Ft.) [Am. 11-10; Eff. 4-16-11]	45	45	45
Maximum Driveway Opening at Curb Line (Ft.) [Am. 11-10; Eff. 4-16-11]	50	50	50
Minimum Landscaping Points Standard: See Section 15.06 and Table 15.06A for landscaping requirements. [Am. 11-10; Eff. 4-16-11]			

15.13 A-1 AGRICULTURE DISTRICT.

(1) PURPOSE. The A-1 Agriculture District is established to preserve, in agricultural uses, lands suited to future urban development pending proper timing and the economical provision of public utilities and community facilities to ensure orderly development.

(2) PERMITTED USES. The following uses are permitted in the A-1 district:

(a) Agricultural uses, but not including commercial dairies, commercial hatcheries and commercial mink, fox or other fur bearing animal farms, and rat farms, commercial feeding of garbage or offal to swine or other animals. Accessory buildings or structures used for shelter or feeding of livestock are permitted provided that they are located not less than one hundred fifty (150) feet from any lot in a residence district.

(b) Public parks, trails and playgrounds.

(c) Accessory uses, including but not limited to the following:

1. Noncommercial athletic fields and playing fields.
2. Home occupations.
3. Seasonal roadside produce stands no larger than 200 square feet.
4. Temporary buildings for storage of building materials and equipment and construction purposes when on the same or adjoining lot as the principal use for a period not to exceed the duration of such construction.

(d) A single family dwelling for the owner or the operator of an agricultural operation on the premises.

(e) Offices for State, County, City, Village, Town or other taxing municipality.

(f) Any residential use lawfully existing as of February 20, 2010. A residential structure that does not conform to the area requirements of this chapter may be added to, altered, restored, repaired, replaced, or reconstructed, and new residential accessory buildings may be constructed, provided that any replacement, addition or accessory building either:

1. complies with all building height and yard requirements of this section and, in the case of a replacement residence, is located within 100 feet of the residence it is replacing, except as otherwise approved by the Planning and Zoning Commission or Joint Committee.
2. is otherwise permitted by §§15.17(6)-(12) of this chapter.

(3) CONDITIONAL USES. The following conditional uses may be allowed in the A-1 district upon approval of a conditional use permit.

(a) Agricultural uses, including commercial dairies, commercial hatcheries and commercial mink, fox or other fur bearing animal farms, and rat farms, but not including commercial feeding of garbage or offal to swine or other animals. Buildings or structures used

for shelter or feeding of livestock shall be located not less than one hundred fifty (150) feet from any lot in a residence district.

(b) Cemeteries, including mausoleums, crematoriums and columbariums in conjunction therewith, provided that crematoriums shall be located not less than three hundred (300) feet from any lot line.

(c) Greenhouses, provided such buildings are located not less than one hundred fifty (150) feet from any lot in a residence district.

(d) Laboratories for research, development and testing, provided such buildings shall not be located less than one hundred fifty (150) feet from any lot line.

(e) Public utility and public service uses as follows:

1. Electric substations.
2. Gas regulator stations, mixing stations and gate stations.
3. Radio and television towers.
4. Railroad rights-of-way, including rights-of-way for switch, spur or team tracks, but not including railroad yards and shops, or freight and service buildings.
5. Sewerage system lift stations.
6. Telephone exchanges, microwave relay towers, telephone transmission equipment buildings.
7. Water pumping stations and water reservoirs.
8. Processed sludge drying facilities accessory to public owned sewerage plants.

(f) Outdoor recreational facilities, swimming, tennis, boating, horse riding, skiing and other sports. Accessory clubhouses and maintenance buildings may be authorized provided they are located not less than one hundred (100) feet from any lot in a residence district, except buildings for shelter and keeping of horses and buildings and facilities for boating shall be not less than three hundred (300) feet from any such lot.

(g) Landscape nurseries and tree service uses (non-retail) including processing mulches and soils and storage of decorative landscape materials such as fencing and logs provided storage areas, buildings or processing areas shall be located not less than one hundred fifty (150) feet from any lot in a residence district.

(h) Golf courses, including golf driving ranges, provided clubhouses and maintenance buildings shall be located not less than three hundred (300) feet from any lot in a residence district.

(i) Airports, landing strips or landing fields and accessory structures.

(j) Veterinary clinics and hospitals provided that any building used for such purposes shall be not less than one hundred (100) feet from any residence district.

(k) Kennels and the retail sale of pet food, pet supplies and similar items accessory thereto.

(l) Horse boarding stables, riding stables, and the retail sale of bridles, saddles, grooming materials and similar items accessory thereto.

(m) Training of dogs or horses at a permitted kennel or horse boarding facility.

(n) Park and ride lots.

(o) Planned unit developments.

(4) LOT AREA AND WIDTH REQUIREMENTS. In the A-1 Agriculture district, there shall be provided a lot area of not less than five (5) acres and a lot width of not less than two hundred (200) feet.

[Am. 12-18, Eff. 9-14-12]

(5) HEIGHT REGULATIONS. In the A-1 agricultural district, no building or structure, shall exceed fifty (50) feet in height.

(6) YARD REQUIREMENTS. In the A-1 agricultural district, front, side, and rear yards shall be provided, each of which shall not be less than 30 feet.

(7) LANDSCAPING STANDARDS. Landscaping shall be provided such that the points credited pursuant to sec. 15.06 total not less than the sum of the following:

(a) 20 points per 100 linear feet of building foundation.

(b) 10 points per 1,000 square feet of gross floor area.

(c) 20 points per 100 linear feet of street frontage.

(d) 40 points per 10,000 square feet of paved area or per 20 parking stalls.

(8) DRIVEWAY STANDARDS. Driveway openings shall not exceed twenty-four (24) feet at the property line nor thirty-six (36) feet at the curb line.

15.131 A-I EXCLUSIVE (A-1 EX) AGRICULTURE DISTRICT.

(1) PURPOSE. The A-1 Ex district is designed to provide for a wide range of agriculture uses and agricultural accessory uses. The district favors uses which are associated with the primary production and harvesting of crops, livestock, animal products or plant materials. Activities typically associated with working farms should be expected in the A-1 Ex district, including noise, dust, odors, heavy equipment, use of chemicals, and long hours of operation. The A-1 Ex district also includes undeveloped natural resource and open space areas, and other uses permitted hereunder. The A-1 Ex district is intended to meet the criteria for certification as a farmland preservation zoning district under s. 91.38, Wis. Stats.

(2) PERMITTED USES.

(a) Agricultural uses.

(b) Agricultural accessory uses, except for those types of agricultural accessory uses listed as conditional uses below.

(c) Any residence lawfully existing as of February 20, 2010. Notwithstanding the provisions of Section 15.17 regarding nonconforming uses and structures, such residence may be added to, altered, restored, repaired provided all of the following criteria are met:

1. The use remains residential,

2. The structure complies with all residential building height, setback, side yard, and rear yard standards of this section; and

(d) Undeveloped natural resource and open space areas.

(e) A transportation, utility, communication, pipeline, electric transmission, or drainage use that is:

1. Required under state or federal law to be located in a specific place, or;

2. Authorized to be located in a specific place under a state or federal law that specifically preempts the requirement of a conditional use permit.

(3) CONDITIONAL USES.

(a) The following types agricultural accessory uses:

1. Farm residences, subject to the application requirements in Section 15.16(3)(a) and a "sunset" condition indicating that the conditional use permit shall expire upon sale of the property to an unrelated third party (thereby requiring a new conditional use permit or rezoning application at such time) and requiring the recording of a notice document with the Register of Deeds notifying current and future owners of this provision.

2. Sale of agricultural and dairy products not produced on the premises and incidental sale of non-alcoholic beverages and snacks.

3. The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those residing on the premises, but not including the storage of a dealer's inventory.
4. Agricultural entertainment activities exceeding 45 days per year, in aggregate, or events planned or anticipated to attract 200 or more persons per day.
5. Farm related exhibitions, sales or events such as auctions, dairy breakfasts, exhibitions of farm machinery and technology, agricultural association meetings and similar activities, occurring on more than five days in a calendar year.
6. Horse boarding stables, riding stables, hay and sleigh rides, and horse training facilities, including the sale of bridles, saddles, grooming supplies and related items at a horse boarding or riding stable facility.

(b) Governmental, institutional, religious, or nonprofit community uses.

(c) Any transportation, communications, pipeline, electric transmission, utility, or drainage use that is not classified as a permitted use.

(d) Non-metallic mineral extraction operations, subject to s. 91.46(6), Wis. Stats. and Sections 15.04(12) and 15.16(4) of this chapter.

(4) PROHIBITED USES. All uses not listed in subs. (2) and (3) are prohibited in the A-1 Ex Agricultural District.

(5) DIMENSIONAL REQUIREMENTS.

(a) The minimum lot area is 35 acres. Replacement dwellings on lots less than 35 acres are permitted per subsection (2)(c) above.

(b) The minimum lot width is 150 feet.

(c) Residential dwellings (including replacement dwellings), detached residential accessory buildings, and other buildings that are not agricultural accessory buildings shall meet the maximum building height and minimum setback requirements applicable to such buildings in the RH-1 district per Table 15.10B. The maximum height of residential accessory buildings and any other accessory building that is not an agricultural accessory building is 15 feet.

(d) Agricultural accessory buildings have no height limitation; agricultural accessory buildings constructed after January 1, 2015 shall meet the minimum setback requirements for accessory buildings in the RH-1 district. No agricultural accessory building shall be moved or structurally altered so as to be nearer than 25 feet from any street or highway right-of-way.

(e) Agricultural accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from any residential district, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division..

15.132 A-2 AGRICULTURE DISTRICT.

(1) STATEMENT OF PURPOSE. The purpose of the A-2 Agriculture District is to provide for low density land uses compatible with agricultural and other rural uses and to accommodate agricultural uses on parcels of less than 35 acres.

(2) PERMITTED USES. The following uses are permitted in the A-2 District:

- (a) Agricultural uses.
- (b) Single family detached residences.
- (c) Utility services.
- (d) Home occupations.
- (e) Accessory buildings.

1. Accessory buildings include private garages and buildings clearly incidental to a permitted use of the premises. The building shall not be used for the storage of goods or merchandise considered to be a dealer's inventory or for storage of machinery or equipment used off of the premises for other than agricultural purposes.
2. Accessory buildings may be built on parcels of land in the A-2 Agriculture District without the necessity of there being a residence on the property.

- (f) Horse boarding stables, riding stables, hay and sleigh rides.
[Cr. 13-021, Eff. 10-10-13]

(3) CONDITIONAL USES. The following uses require a conditional use permit in the A-2 District:

(a) Mineral extraction operations, asphalt plants, ready mix concrete plants. Mineral extraction operations are subject to sec. 15.04(12) and 15.16(4).
[Am. 06-06; Eff. 6-9-06]

(b) Radio, television transmitting towers, microwave towers, community television antenna installations including the buildings or structures necessary for their operation but not including buildings for offices, studios or the like.

(c) Dumping grounds, sanitary landfill sites, demolition material disposal sites and incinerator sites shall also comply with §60.72 Wis. Stats. and shall meet the minimum standards as adopted by the State Department of Natural Resources.

- (d) Cemeteries.
- (e) Airports, landing strips or landing fields together with accessory structures.
- (f) Religious uses.

- (g) Salvage recycling centers.
- (h) Solid waste recycling centers.
- (i) Dependency living arrangements.
- (j) Governmental uses.
- (k) Native wildlife rehabilitation facilities.
- (l) Parking or storage of not more than two trucks, semi-tractors or semi-trailers which have a gross vehicle weight of over 12,000 lbs.
- (m) Private schools.
- (n) Kennels, horse shows and similar events.
[Am. 13-021, Eff. 10-10-13]
- (o) Unlimited livestock on 3 to 16 acres.
- (p) Sale of agricultural and dairy products not produced on the premises and incidental sale of non-alcoholic beverages and candy.
- (q) Seasonal storage of recreational equipment and motor vehicles owned by private individuals in existing accessory farm buildings. The storage of a dealers inventory or the construction of any new buildings for storage shall be considered a commercial use.
- (r) Training of dogs at a dog kennel or training of horses at a horse boarding facility.
- (s) Family businesses, subject to the following limitations:
 1. All employees, except one or one full-time equivalent, shall be a member of the family residing on the premises.
 2. The Village Board may limit the percentage of the property that may be devoted to the business.
 3. The conditional use permit holder may be restricted to a service oriented business and thus prohibited from manufacturing or assembling products or selling products on the premises or any combination thereof.
 4. The conditional use permit may restrict the number and types of machinery and equipment the permit holder may be allowed to bring or operate on the premises.
 5. The design, size, and location of the structure(s) or area(s) used for the business may be subject to conditions set forth in the conditional use permit.
 6. The conditional use permit shall automatically expire on sale of the property or the business to any entity not party to the original conditional use permit application.[Cr. 08-14; Eff. 5-16-08]

(4) BUILDING HEIGHT LIMITS. Building height limitations shall be the same as for the A-1 Exclusive Agriculture District.

(5) AREA AND FRONTAGE REGULATIONS

(a) Minimum lot size in the A-2 District shall be one (1) acre and minimum lot width shall be 150 feet.

(b) Keeping of livestock shall be restricted according to lot sizes as follows:

1. On parcels of less than 2 acres the keeping of livestock is not permitted.
2. On parcels of between 2 acres and 16 acres livestock shall be limited to 1 animal unit per each full acre.
3. On parcels of more than 16 acres, the number of livestock permitted is not restricted.

(c) For salvage recycling centers the minimum area is three acres.

[Am. 08-14; Eff. 5-16-08]

(6) SETBACK REQUIREMENTS. No building, including barns and other farm buildings of any description whatsoever, shall be erected, moved or structurally altered so as to be nearer than 25 feet from any street or highway right-of-way.

(7) SIDE YARD REQUIREMENTS.

(a) Side yards for residential dwellings and residential accessory buildings shall be the same as for the RE-1 Residence District.

(b) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from any residential district, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division.

(8) REAR YARD REQUIREMENTS.

(a) Rear yards for residential dwellings and residential accessory buildings shall be the same as for the RE-1 Residence District.

(b) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from any residential district, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division.

(9) OFF-STREET PARKING. Off-street parking space shall be provided in accordance with the provision of sec. 15.08.

15.133 A-3 AGRICULTURAL TRANSITION DISTRICT.

[Cr. 15-044; Eff. 12-24-15]

(1) PURPOSE. The A-3 district is established to preserve, in agricultural and open space uses, lands suited to future urban development pending proper timing and the economical provision of public utilities and community facilities to ensure their orderly development. The A-3 district does not meet the criteria for certification as a farmland preservation zoning district under Section 91.38, Wis. Stats., because it is not mapped in areas planned for long-term farmland preservation in the Dane County farmland preservation plan.

(2) PERMITTED USES. Permitted uses shall be the same as those within the A-1 Exclusive Agricultural district.

(3) CONDITIONAL USES. Conditional uses shall be the same as those within the A-1 Exclusive Agricultural District.

(4) DIMENSIONAL REQUIREMENTS. Lot area, width, setback, height, and other dimensional requirements shall be the same as those within the A-1 Exclusive Agricultural District.

15.134 A-4 SMALL LOT EXCLUSIVE AGRICULTURAL DISTRICT. [Cr. 15-044; Eff. 12-24-15]

(1) PURPOSE. The A-4 district is established to provide for a modest range of agricultural and agricultural accessory uses, at scales consistent with the size of the parcel and compatible with neighboring land uses, and on lots between five and 35 acres in area. The district is also intended to preserve remnant parcels of productive agricultural land that are between five and 35 acres following development of adjoining property. Activities typically associated with working farms should be expected in the A-4 district, including noise, dust, odors, heavy equipment, use of chemicals, and long hours of operation. The A-4 district also includes undeveloped natural resource and open space areas, and other uses permitted hereunder. The A-4 district is intended to meet the criteria for certification as a farmland preservation zoning district under s. 91.38, Wis. Stats.

(2) PERMITTED USES. Permitted uses shall be the same as those within the A-1 Exclusive Agricultural district, except that the keeping of livestock shall be limited to a density of one animal unit per each full acre as a permitted use.

(3) CONDITIONAL USES. Conditional uses shall be the same as those within the A-1 Exclusive Agricultural district, except that the keeping of livestock at a density of greater than one animal unit per each full acre shall be a conditional use.

(4) PROHIBITED USES. All uses not referenced as either permitted or conditional uses in subs. (2) and (3) are prohibited in the A-4 district.

(5) DIMENSIONAL REQUIREMENTS. Dimensional requirements shall be the same as those within the A-1 Exclusive Agricultural District, except that the minimum lot area in the A-4 district shall be not less than five acres and the maximum lot area shall be not greater than 35 acres.

15.14 C-1 CONSERVANCY DISTRICT.

[Repl. & Recr. 21-30, Eff. 10-16-21]

(1) PURPOSE. The C-1 Conservancy district is established to preserve areas of environmental significance, limited building potential, or both; and to enable public park, recreation, other open space uses and certain utility uses on lands that may or may not have such characteristics.

(2) PERMITTED USES.

(a) Land and water preserves, including conservancies, environmental corridors, arboretums, and forestry.

(b) Passive recreational activities, including but not limited to boating, swimming, fishing, birding, hiking, and cross-country skiing.

(c) Parks, trails, athletic fields, playfields, and playgrounds that are open to the public, including accessory parking, picnic and concession facilities and operations, farmers markets, community events, and other accessory uses commonly associated with such facilities, but not including any golf course.

(d) Outdoor public educational facilities.

(e) Municipal and utility facilities and uses, including recreational buildings and community centers.

(f) Stormwater management facilities.

(g) Agricultural uses, including the harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds, but not including livestock.

(3) CONDITIONAL USES.

(a) Golf courses, including accessory parking, concession facilities and operations, club houses, maintenance facilities, and other accessory uses commonly associated with golf courses.

(b) Improvement of and within natural water courses and bodies of water; including their alteration, creation, damming, dredging; and the construction or extension of piers.

(c) Cemeteries.

(d) Communication towers.

(e) Any dwelling units or lodging rooms accessory to another permitted or conditional use.

(4) MAXIMUM BUILDING HEIGHT. 2 1/2 stories or 35 feet, whichever is greater, except that agricultural accessory buildings such as barns have no height limitation.

(5) MINIMUM YARD REQUIREMENTS. For buildings, minimum yards (setbacks) shall be as follows:

(a) Front and street side yard—25 feet

(b) Interior side yard—10 feet

(c) Rear yard—25 feet

(6) MINIMUM LOT AREA AND WIDTH. None.

(7) OFF STREET PARKING. Per §15.07.

(8) LANDSCAPING STANDARDS. Per §15.06, using REC Recreation zoning district standards.

(9) DRIVEWAY STANDARDS. Driveway openings shall not exceed 40 feet at the lot line and 46 feet at the curb or street pavement line.

15.15 PLANNED UNIT DEVELOPMENT (PUD) DISTRICT

(1) PURPOSE AND INTENT. The purpose of this section is to encourage improved design in the development of land by providing relief from rigid zoning requirements which are designed for conventional developments but which may preclude desirable but unconventional development. The PUD district shall not be used as a substitute when the Village Board determines that a one or more standard zoning districts would enable implementation of a particular development plan in substantially similar form to that envisioned. In other words, the PUD district shall not be the default choice for new development projects, but instead should be reserved for developments where conforming to standard zoning districts would be impractical or significantly compromise the vision of the development. The PUD district and this section is further intended to promote the following objectives:

- (a) Diversification in the use permitted, and variation in the relationship of uses, structures, open spaces and heights of structures in developments conceived as unified projects.
- (b) Environmental design in the development of land that is of a higher quality than would otherwise be possible through the strict application of general zoning requirements.
- (c) Promotion of the functional and beneficial use of common open space.
- (d) Preservation of archeological and historic resources and natural landscape features and amenities of a development site and utilization of such features in a harmonious fashion.
- (e) Creation of a variety of uses in compatible arrangements which provide a greater choice of living, employment and shopping environments.
- (f) Efficient use of land resulting in more cost effective networks of utilities, streets and other facilities.
- (g) Coordination of architectural styles, building forms and relationships, graphics and other private improvements.

[Am. 13-021, Eff. 10-10-13]

(2) MINIMUM AREA. A Planned Unit Development shall not be less than three (3) acres of contiguous land under a single form of ownership. This subsection shall not be interpreted to prohibit the post-development sale of all or part of an approved PUD subject to the provisions of this section and all applicable statutes and subdivision regulations.

[Am. 13-021, Eff. 10-10-13]

(3) PERMITTED AND CONDITIONAL USES. The uses which may be permitted uses or conditional uses under a Planned Unit Development include a mixture of uses, including any uses listed as permitted or conditional uses in different standard zoning districts in this chapter. All permitted and conditional uses within each Planned Unit Development shall be as listed within the approved Final Development Plan for that Development. No use is permitted as a matter of right in the PUD District or as a conditional use except as may be provided in an approved Final Development Plan for each particular Planned Unit Development.

[Am. 13-021, Eff. 10-10-13]

(4) PROCEDURES FOR APPROVAL.

(a) Concept Plan and Pre-application Conference. Prior to preparation of a formal application, the applicant shall provide the Zoning Administrator with a concept plan for the proposed Planned Unit Development and confer on procedures, submittal requirements, relationships to Village plans, and standards for approval. The applicant and/or Zoning Administrator may choose to refer the concept plan to the Planning and Zoning Commission or the Joint Committee to obtain information and guidance relating to the preparation of an application. The views expressed by the Zoning Administrator shall be for informational purposes only and designed to afford the applicant the opportunity to revise the application prior to its formal submission to address staff concerns.

(b) Preliminary Application/Zoning Map Amendment Submission. The applicant shall submit a completed Planned Unit Development Preliminary Development Plan/rezoning application on a form(s) provided by the Zoning Administrator, nine (9) hard copies and a digital PDF copy of a Preliminary Development Plan prepared in accordance with par. (c), and an application fee as established by the Village Board. All Preliminary Development Plan documents shall be prepared in Microsoft Word or other commonly available word processing software.

(c) Preliminary Development Plan. The preliminary development plan shall contain the following:

1. The name and address of all owners of the site proposed for development as well as the name and address of all professional site planners, architects, engineers, surveyors or other consultants;
2. A legal description of the site covered by the plan;
3. A general area plan drawing reflecting the intended land uses and the location of each, and all future proposed street locations within the site when the proposed Planned Unit Development is intended to be developed in more than one phase;
4. The location of all property lines, existing streets, easements, utilities and any other significant physical features;
5. Date, north arrow and graphic scale (not less than one inch equals one hundred feet (1" = 100') of all drawings submitted;
6. The present zoning district designation(s) of the property;
7. An indication of the existing conditions on the tract including contour lines at two (2) foot intervals, water courses and existing drainage facilities, wooded areas and isolated trees of six inches (6") or more in diameter, existing streets, sidewalks or other improvements, and existing buildings and structures with an indication of those which will be removed and those which will be retained as part of the development;
8. A description of the area surrounding the site showing land use, streets, peculiar physical or natural features, public facilities and existing zoning;
9. Quantitative data indicating the following:

- a. Minimum and maximum number of dwelling units;
 - b. Approximate gross and net residential densities, excluding all streets and roadways;
 - c. Total amount of usable open space area provided in the tract;
 - d. Such other calculations as the Planning and Zoning Commission or, if the property is located wholly or partially in the ETZ Area, the Joint Committee may require.
10. A development schedule indicating:
 - a. the approximate date when construction of the project will begin;
 - b. the stages in which the project will be built and the approximate date when construction of each stage will begin;
 - c. the approximate dates when the development of each stage will be completed; and
 - d. the area and location of common open space that will be provided at each stage;
 - e. a schedule of deadlines for submission of final development plans for each phase of the proposed development if final development plans encompassing the entire development will not be filed within one (1) year from the date of approval of the preliminary development plan.
11. An explanation of the methods proposed by the applicant to provide for the maintenance and regulation of common areas and open spaces, including copies of any proposed deed restrictions, building covenants and organizational documents of any property owner's association or similar agreements; and
12. Such other documents explaining other circumstances as the Planning and Zoning Commission or Joint Committee may require.

(d) Public Hearing. Upon receipt of a complete application, the Zoning Administrator shall schedule the matter for public hearing before the Planning and Zoning Commission. Notice of the hearing shall be given by publication of a Class 2 notice as provided in Chapter 985, *Stats.* and providing any notice to adjacent municipalities required by §62.23(7), *Stats.* The hearing may be continued as necessary for the submission of additional information or the revision of the application documents.

(e) Planning and Zoning Commission Action. Within thirty (30) days after the completion of the hearing, the Planning and Zoning Commission shall make findings with regard to the standards set forth in sub (6) and §15.03(7)(e), and forward a report to the Village Board with a recommendation to approve, approve with conditions, or reject the Preliminary Development Plan and associated rezoning to the PUD district.

(f) Board Action on Preliminary Development Plan. Approval of the Preliminary Development Plan by the Village Board shall constitute approval of the general arrangement of the Plan, the provisions submitted by the applicant, a waiver of those provisions of the general zoning code which are set forth in the Preliminary Development Plan, and approval of a rezoning of the lands within the Planned Unit Development to the PUD District. Such rezoning shall take effect only when a Final Development Plan associated with the Planned Unit Development is subsequently approved by the Planning and Zoning Commission or Joint Committee and a building permit is issued thereunder. Such Board approval of the Preliminary Development Plan and associated zoning map amendment shall become void, as to any lands for which a final development plan application is not submitted by the latest of:

1. one (1) year from the date of approval of the preliminary development plan;
2. the date set forth in the approved preliminary development plan pursuant to subpar. (c)10e;
3. any date established by the Village Board by resolution extending the period provided in subpar. (f)1 or 2.

(g) Final Application Submission. Nine (9) hard copies and one digital PDF copy of a completed Final Development Plan application form and the Final Development Plan shall be filed with the Zoning Administrator. All Final Development Plan documents shall be prepared in Microsoft Word or other commonly available word processing software. At the discretion of the applicant, one or more complete Final Development Plan applications may be submitted concurrently with a Preliminary Development Plan application associated with all or part of the same land. The Final Development Plan submission shall be accompanied by a fee and review escrow in accordance with a fee schedule set by the Village Board. The Final Development Plan shall include the following:

1. Any amendments required as part of the preliminary review process;
2. A site plan of the proposed development indicating the general location of the following:
 - a. All buildings, structures and other improvements, including architectural elevation or perspective drawings of all buildings and improvements sufficient to show the developer's intent;
 - b. Common open space (for developments with residential use) and recreation facilities with a designation of the intended uses;
 - c. Off-street parking facilities and number of spaces to be provided;
 - d. Sidewalks;
 - e. Illuminated areas;
 - f. Screening or buffering of the development perimeters;
 - g. All areas and streets which are intended to be dedicated to the public;
 - i. Landscaping plan;

- j. A detailed plan for signage including locations, dimensions, heights, and qualitative standards.

[Cr. 08-27; Eff. 8-22-08; renumbered from 1j by revisor]

3. Quantitative data indicating the following:

- a. Maximum number of dwelling units;
 - b. Maximum lot coverage of buildings and structures (percent of total);
 - c. Maximum impervious surface coverage of all building and structures, driveways, roads, sidewalks, patios and other non-porous surfaces (percent of total);
 - d. Approximate gross and net residential densities, excluding all streets and roadways;
 - e. Minimum amount of usable open space area provided in the tract;
 - f. Such other calculations as the Planning and Zoning Commission or, if the property is located wholly or partially in the ETZ Area, the Joint Committee may require.
 - g. Minimum square footage for each residential use type within the proposed PUD.
4. A checklist specific to the PUD listing the use, design, dimensional, and other requirements and conditions of the Final Development Plan, in order to facilitate later developer, builder and home/business owner compliance with the Final Development Plan.
 5. Clear indication of which submitted materials are intended to be included in the Final Development Plan as regulatory materials enforceable by the Village, and which submitted materials the applicant is intending as supplemental, non-regulatory components and/or components that are proposed to be enforced by others aside from the Village.

[Cr. Ord. 06-06, Eff. 3-9-06]

(h) Planning and Zoning Commission Action. The Planning and Zoning Commission (or appropriate Joint Committee if in the ETZ Area) shall review the Final Development Plan for conformity with the approved Preliminary Development Plan and the provisions of this section. If the Final Development Plan complies with the approved Preliminary Development Plan except for changes required as a condition of such approval, and subject to approval of such changes, and if the Planning and Zoning Commission or Joint Committee approves all of the features as shown on the site plan required by sub. (4)(g)2, the Planning and Zoning Commission or Joint Committee shall, by resolution, approve, approve with conditions, or reject the Final Development Plan. The Zoning Administrator shall deliver for recording the approved Final Development Plan, resolution, and all ordinances, dedications, covenants and such other documents as may be required as a condition of the approval.

(i) Recording of Final Development Plan; Rezoning of Lands. The applicant shall record the approved Final Development Plan and associated documents upon receipt from the Zoning

Administrator. Upon presentation of evidence of recording and an application for a building permit within the Final Development Plan area for an authorized use, the rezoning of the Final Development Plan area shall become effective and the Zoning Administrator shall cause the official zoning map to reflect the rezoning.

(j) Lapse of PUD Approvals. The applicant shall conform to the development schedule in the approved Final Development Plan. If no building permit has been issued in the Planned Unit Development within five (5) years from the approval of the associated Final Development Plan or if any improvement is not completed within five (5) years from the date set forth in the Preliminary Development Plan, all associated Preliminary Development Plan and Final Development Plan approvals shall lapse and be void. The Village Board may, by resolution, extend the period for the beginning of construction, the establishment of an approved use, or completion of a phase of development as provided in the development schedule. If a Preliminary Development Plan or Final Development Plan lapses under the provisions of this section, the Zoning Administrator shall notify the applicant of the lapse of approval and the property owner shall promptly cause the property to be brought into compliance with all of the district regulations in effect prior to the approvals granted pursuant to par. (i). In the event such land has been rezoned to the PUD district but the approvals have lapsed under this section, the Zoning Administrator shall initiate an application to rezone the land from PUD back to the zoning district over the land before PUD, or the nearest comparable zoning district.

[Am. 13-021, Eff. 10-10-13]

(5) AMENDMENTS TO APPROVED PLANNED UNIT DEVELOPMENTS. The Zoning Administrator may authorize an amendment to an approved Preliminary Development Plan and/or Final Development Plan in the design, location, siting and height of buildings and structures; lot dimensional standards; and any other standards or features specifically identified for such consideration in the Plan(s), if required by engineering, topographic, lot configuration, or other circumstances not foreseen at the time such Plan(s) was approved, provided that the amendment does not result in any of the following:

- (a) A change in the approved use, character, or vision of the development;
- (b) An increase by more than five percent (5%) in the overall coverage of structures;
- (c) An increase in the density or intensity of use by more than five percent (5%);
- (d) A reduction of more than five percent (5%) in approved open space; or
- (e) A reduction of minimum required off-street parking and loading spaces by more than 25 percent (25%).
- (f) A reduction in any minimum lot area, minimum floor area, or dimensional requirement by more than five percent (5%), unless the reduction is necessary to allow for a conveyance of land to the Village or another governmental entity for public purposes.
- (g) A conflict with the specific intent of the Village Board or Plan Commission in approval of the Plan(s).

Any other amendment to the Preliminary Development Plan shall be classified as major amendments, and must be approved by Village Board, following a recommendation from the Planning and Zoning Commission (or Joint Committee if in the ETZ Area). Any other amendment

to the Final Development Plan must be approved by the Planning and Zoning Commission (or Joint Committee if in the ETZ Area). Each approved amendment to the Final Development Plan must be recorded by the applicant before the Village will issue a building permit authorized under the approved amendment.

(6) STANDARDS FOR APPROVAL. No planned unit development shall be approved unless the Planning and Zoning Commission shall determine all of the following:

(a) That the proposed site will be provided with adequate drainage facilities for surface and storm waters.

(b) That the proposed site is accessible from public roads that are adequate to carry the traffic that will be generated from the proposed development.

(c) That the proposed development can be adequately, safely, and efficiently provided with, and will not place an undue burden on, public utility services and facilities.

(d) That the streets and driveways on the site of the proposed development will be adequate to serve the residents of the development and will meet the minimum construction standards and specifications of all applicable ordinances of the Village, except to the extent such standards and specifications are modified as part of the approved Preliminary or Final Development Plans.

(e) That the character or uses of the proposed development will not adversely affect real estate values in, or the character of, the neighborhood adjacent to the proposed development or the development of such areas as permitted by the zoning code.

(f) That adequate provision has been made for the maintenance of any common grounds, parks, open spaces, recreational areas, community buildings, or other common facilities included in the proposed development.

(g) That adequate safeguards have been provided to prevent the subsequent development of, and construction of, buildings and structures upon, any common grounds, parks, open spaces, or recreational areas included in the proposed development.

(h) That the proposed development offers a cohesive design which is compatible with the physical nature of the site and surrounding area.

(i) That the proposed development will produce an attractive environment of sustained aesthetic desirability, economic stability and functional practicality compatible with the intent of the Village Master Plan or applicable comprehensive plan.

(j) That, to the extent the plan provides for lot dimensions, setbacks, building heights, landscape treatments or other design features which do not conform to the general district regulations, modifications or those regulations in the context of the overall development plan will not adversely affect the public health, safety or welfare.

(k) That the proposed design satisfies all of the requirements of this section and all applicable subdivision regulations.

(I) That the schedule for development and submission of final development plans as set forth in a preliminary development plan is reasonable considering the scope of the development and its proposed phases, the impact of the schedule on Village planning, and the ability of the Village and other governmental entities to accommodate the needs created by the development as development occurs.

(7) SUBDIVISION REVIEW. The applicable subdivision review under the Village subdivision ordinance shall be carried out as an integral part of the review of a planned unit development. The plans required must be submitted in a form which substantially satisfy requirements of the subdivision regulations for the preliminary and final plat approvals. Subdivision applications may be submitted for the whole, a part, or parts of the overall planned unit development as indicated by phases in the final development phasing plan.

(8) STREET DESIGN STANDARDS.

(a) Circulation. All commercial buildings shall have access on internal or frontage roads. The road system must give consideration to properties beyond the planned unit development.

(b) Streets. Streets in a planned unit development may be dedicated to public use or may be retained under private ownership. They shall be constructed in accordance with standards required by local governmental regulations, or as otherwise specified in the planned unit development conditional use permit.

(9) OPEN SPACE REQUIREMENTS.

(a) Distribution and Design:

1. Open space shall be distributed equitably throughout a planned unit development in relationship to the uses to which it serves.
2. Open spaces shall be generally linked to provide a continuous network.
3. Buildings and other structures shall be positioned on a site to provide for maximum, usable open space.
4. Retention basins and ponds shall have a minimum of fifty (50) feet of usable open space surrounding the perimeter of such ponds and basins.
5. No proposed open space area may be accepted as usable common open space unless its character and quality have been approved by the Planning and Zoning Commission. When making its determination the Commission shall give consideration to the following variables:
 - a. The topography and existing amenities of the proposed area, including trees, ground cover and other natural features.
 - b. The manner in which the proposed area is to be improved and maintained for recreational or amenity purposes.
 - c. The existence of public parks or other public recreational facilities in the vicinity and the relationship thereto.

(b) Open Space Conveyance and Maintenance:

1. All land shown on the final development plan as common open space must be conveyed under one of the following options:
 - a. It may be conveyed to a public agency which will agree to maintain the common open space and any buildings, structures or improvements which have been placed on it.
 - b. It may be conveyed to trustees provided in a declaration of covenants recorded against the property establishing a property owners association or similar organization for the maintenance of common open spaces within the planned unit development. The common open space must be conveyed to the trustees subject to the covenants to be approved by the Planning and Zoning Commission and Village attorney, which covenants restrict the common open space to the uses specified on the final development plan, and which provide for the maintenance of the common open space in a manner which assures its continuing use for its intended purpose.
2. No common open space may be put to any use not specified in the final development plan unless the final development plan has been amended to permit that use as provided herein. However, no change of use authorized under amendments of the plan may be considered as a waiver of any of the covenants limiting the use of common open space areas. All rights to enforce these covenants against any use permitted under further amendment of the plan are expressly reserved.
3. If the common open space is not conveyed to a public agency, either one of the following methods of enforcement must be provided:
 - a. The legal right to develop the common open space for the uses specified in the final development plan must be conveyed to a public agency.
 - b. The restrictions governing the use, improvement, and maintenance of the common open space must be stated as conditions to the conveyance of the common open space. The fee title to the common open space shall be vested in the Village in the event of a substantial default in the stated conditions or
 - c. The covenants governing the use, improvement, and maintenance of the common open space shall authorize the Village Board to enforce their provisions.
4. Once a planned unit development plan has been approved, the common grounds, parks, open spaces, and recreational areas included in the said plan shall not be used for the construction of any building or structure which has not been approved by the Parks, Recreation & Natural Resources Committee as part of a final development plan, nor shall such common grounds, parks, open spaces, or recreational areas be thereafter computed as a part of the required minimum lot area or required yard of any other building or structure.

5. Minimum Amount. A minimum of fifty percent (50%) of the gross area of a residential planned unit development which includes any residential uses shall be devoted to open space. Such open space shall be limited to the following:

- a. Recreational open space, including but not limited to: swimming pools, tennis courts, recreation buildings, jogging trails/fitness courses, detention basins designed for recreational use, tot lots, ball and soccer fields.
- b. Common open space, which shall include, but not be limited to the following:
 - (i) Detention and retention basins and ponds not designed for dual recreational use, natural water features, wetlands, and conservation areas. However, such open spaces when combined shall not exceed fifty percent (50%) of the required open space.
 - (ii) Perimeter open space, including but not limited to: open space abutting roadways, adjoining property, and parking lots.

6. Access. Convenient access to all common open space shall be guaranteed to all residents within the development.

7. Useable Common Open Space.

- a. Each residential planned unit development shall have a minimum amount of usable common open space as specified by the table below:

Density (d.u./net acre)	Common Open Space (% of gross site area)
Less than 4	15%
Greater than 4, Less than 8	20%
Greater than 8	25%

Such usable common open space shall not include:

- (i) Areas reserved for the exclusive use or benefit of an individual tenant or owner,
- (ii) Dedicated streets, alleys, and other public rights-of-way,
- (iii) Vehicular drives, parking, loading and storage areas, or
- (iv) Irregular or unusable narrow strips of land less than fifteen (15) feet wide.

(10) EXTRATERRITORIAL PROVISIONS.

(a) If all of the property for which an application is submitted under this section is located in the ETZ Area, the appropriate Joint Committee shall act in lieu of the Planning and Zoning Commission and shall have all of the powers and duties of the Commission under this section.

(b) The appropriate Joint Committee shall act jointly with the Planning and Zoning Commission in reviewing and making recommendations on any application partially within the ETZ Area and shall hold all required hearings jointly.

(c) No rezoning associated with a Planned Unit Development which includes any lands in the ETZ Area shall be approved by the Village Board unless first recommended for approval by the appropriate Joint Committee, and subject to all other requirements of sec. 15.035.
[Am. 08-14; Eff. 5-16-08; Am. 13-021, Eff. 10-10-13]

15.155 WP WELLHEAD PROTECTION OVERLAY DISTRICT

(1) PURPOSE. Persons served by the DeForest Water Utility depend exclusively on groundwater for a safe drinking water supply. Certain land use practices and activities can seriously threaten or degrade groundwater quality. This WP overlay district institutes land use regulations within 1,200 feet of each municipal well, designated in the Village's wellhead protection plan and mapped as WP areas on the zoning map. The district is intended to protect groundwater quality and promote the health, safety and general welfare of municipal water users. Authority for Village adoption of this district and enforcement of associated regulations is established under §62.23(7)(a) and (c), Stats., and §NR 811.16, Wis. Adm. Code.

(2) SEPARATION DISTANCES. Minimum separation distances shall be maintained between any well and other facilities within the WP overlay district per the standards in §NR 811.12, Wis. Adm. Code.

(3) CONDITIONAL USES. Subject to the separation standards in subsection (2), the uses listed within this subsection (3) are conditional uses within the WP overlay district, provided that such uses are allowed in the underlying zoning district. Uses not listed below are permitted by right in the WP district, provided such uses are permitted by right in the underlying zoning district and subject to any applicable separation standards in subsection (2).

- (a) Animal waste storage areas and facilities.
- (b) Asphalt products manufacturing plants.
- (c) Automobile fueling, service, painting, repair, and/or maintenance facilities.
- (d) Building materials and product sales.
- (e) Car washes.
- (f) Cartage and express facilities.
- (g) Cemeteries.
- (h) Center-pivot or other large-scale irrigated agriculture operations.
- (i) Chemical storage, sale, processing, and/or manufacturing facilities.
- (j) Dry cleaning establishments.
- (k) Dumping or disposing of garbage, refuse, trash, or demolition material.
- (l) Electronic circuit assembly plants.
- (m) Electroplating plants.
- (n) Exterminating shops.
- (o) Fertilizer manufacturing or storage facilities.

- (p) Foundries and forge plants.
 - (q) Highway salt storage areas.
 - (r) Industrial liquid waste storage areas.
 - (s) Junk yards and salvage yards.
 - (t) Metal reduction and refinement plants.
 - (u) Mineral extraction operations.
 - (v) Motor and machinery service and assembly shops.
 - (w) Motor freight terminals.
 - (x) Petroleum products storage tanks, and/or processing of petroleum products.
 - (y) Pharmaceuticals manufacturing.
 - (z) Photography studios, including the developing of film and pictures.
 - (aa) Plastics manufacturing.
 - (bb) Printing and publishing establishments.
 - (cc) Pulp and paper manufacturing.
 - (dd) Septage disposal sites.
 - (ee) Sludge disposal sites.
 - (ff) Storage, manufacturing or disposal of toxic or hazardous materials.
 - (gg) Underground petroleum products storage tanks, and above-ground petroleum product storage tanks greater than 660 gallons. All new or replaced tanks shall also be installed in compliance with SPS 310, Wis. Adm. Code.
 - (hh) Woodworking and wood products manufacturing.
- (ii) Any other use with characteristics similar to one or more of the above listed uses, in the determination of the Zoning Administrator.

(4) CONDITIONAL USE PERMIT APPLICATION, STANDARDS, AND CONDITIONS.

(a) Application. In addition to conditional use permit application requirements in §15.16(3)(a), the Zoning Administrator may require an environmental impact study, environmental assessment, or such other information as necessary to evaluate the application against the conditional use permit standards in this subsection and in §15.16.

(b) Standards. Standards for conditional use permit approval are included within §15.16(t). In its consideration of conditional use permits applications for one of the listed conditional uses in subsection (3) within the WP overlay district, the Planning and Zoning Commission and Village Board shall consider the following additional factors:

1. The Village's responsibility as a public water supplier to protect and preserve public health, safety and welfare.
2. The potential of the proposed use to seriously threaten or degrade groundwater quality.
3. The availability of alternative uses, locations, and operational characteristics, and the cost, effect, and extent of availability of such alternatives.
4. The proximity of the applicant's property to other potential sources of contamination or vulnerable activities or uses.
5. The then-existing condition of the associated well, well field, well recharge area, and the vulnerability to further contamination.
6. The direction of flow of groundwater and other factors in the area of the applicant's property which may affect the speed of the groundwater flow, including topography, depth of soil, extent of aquifer, depth to water table, and location of private wells.
7. The zone of contribution (5-year, 50-year, 100-year) for the associated well within which the proposed use is located.
8. Any other hydrogeological data or information which is available from any public or private agency or organization.
9. The potential benefit, both economic and social, from the approval of the application.

(c) Approval Conditions. In its approval of any conditional use permit within the WP overlay district, the Village Board may impose conditions as specified under §15.16(g) and:

1. Environmental and/or safety monitoring to indicate whether the facility may be emitting any contaminants.
2. A financial guarantee in a form determined by the Village for future monitoring and cleanup costs.
3. Any requirement authorized for existing facilities under subsection (5).

(5) REQUIREMENTS FOR EXISTING FACILITIES AND LAND USES.

(a) At the request of the Zoning Administrator, existing facilities, as defined under §15.02, shall provide to the Village copies of all federal, state and local facility operation approvals or

certificates and ongoing environmental monitoring results.

(b) Existing facilities shall provide additional environmental or safety monitoring as deemed necessary by the Village Board, including the production of any and all environmental statements detailing the extent of chemical use and storage on the property.

(c) Existing facilities, when upgrading or expanding, shall replace equipment or expand in a manner that improves existing environmental and safety technologies and performance.

(d) At the request of the Zoning Administrator, existing facilities shall devise and file with the Village, a contingency plan for unexpected release of contaminants or other emergency events that is satisfactory to the Village Board.

(6) VIOLATIONS AND COMPLIANCE. In the event an individual and/or facility within the WP district causes the release of any contaminants which endanger the public, in the determination of the Village Board, the individual or facility causing said release shall immediately cease and desist, and provide clean-up satisfactory to the Village Board. The individual or facility will be held financially responsible for all environmental cleanup costs, along with all required Village consultant fees for oversight, review and documentation. Following any such discharge, the Village may require additional environmental and/or safety monitoring.

[Cr. 13-06, Eff. 4-4-13]

15.16 CONDITIONAL USES.

(1) PURPOSE. Conditional uses are certain land uses which, because of their unique characteristics, cannot be properly classified as unrestricted permitted uses in any particular district or districts without consideration, in each case, of the impact of those uses upon neighboring land or public facilities, and of the public need for the particular use at a particular location. Such uses, nevertheless, may be necessary or desirable to be allowed in a particular district provided that due consideration is given to the location, development, and operation of such uses. The purpose of this section is to provide for the approval of conditional uses where, in light of requirements or restrictions imposed as conditions of approval, such uses will not be detrimental to the public health, safety or welfare and will meet the standards for the approval of conditional use permits in this section.

[Am. 13-021, Eff. 10-10-13]

(2) CONDITIONAL USE PERMITS. Whenever the regulations of any zoning district authorize one or more conditional uses, such uses shall be permitted only upon issuance of, and in compliance with, a conditional use permit under this section. Conditional use permits shall terminate on the earliest of:

(a) The date or event specified in any limited conditional use permit issued under sub. (4) or any temporary use permit issued under sub. (7);

(b) The effective date of a change in the district designation of the property or the district regulations which results in the use becoming a prohibited use in the district, subject to the provisions of 15.17;

(c) The discontinuation of the operations authorized by the conditional use permit for any period of twelve (12) consecutive months;

(d) One (1) year after the date of issuance if the approved conditional use has not been implemented nor substantial construction to facilitate the use commenced;

(e) Entry of an order by the municipal court or any court of record terminating the permit upon a finding that the conditions set forth in the permit have been materially or repeatedly violated; or

(f) The reversal of conditional use permit approval by the Village Board upon an appeal under sub. (3)(e).

[Am. 13-021, Eff. 10-10-13]

(3) PROCEDURE FOR APPROVAL.

(a) Application. All applications for conditional use permits shall be submitted on a form provided by the Zoning Administrator. The application shall contain a description of the property, the name of the applicant, a description of the proposed use including applicable operational characteristics, a conceptual site and building plan if site and building improvements are anticipated or required to accommodate the conditional use, and such other information as the Zoning Administrator shall determine necessary for appropriate review. The application shall describe all conditions and restrictions proposed by the applicant to assure that the proposed use will continually meet the standards set forth in par. (f). The Zoning Administrator may reject any application which does not contain the required information or which proposes a use not

authorized as a conditional use by the applicable district regulations. The following additional information shall be submitted with an application for a farm residence in the A-1 Ex or A-4 district:

1. Written description of the farm operation, including location, size, crops grown and/or livestock raised, number of employees beyond family members, and summary of farm income derived from the farm operation.
2. Completed IRS form "Schedule F – Profit or Loss from Farming" for the past three tax years.
3. Farm conservation plan obtained from the Land Conservation Division of the Dane County Land & Water Resources Department.
4. Site plan showing the farm ownership boundaries and the location of the proposed new homesite and driveway access.

[Am. 11-10; Eff. 4-16-11; Am. 15-044; Eff. 12-24-15]

(b) Pre-application Conference. Upon receipt of a complete application, the Zoning Administrator may schedule a pre-application conference with the applicant or the applicant's representative and those Village or Town officers or employees deemed appropriate by the Administrator. The purpose of the conference is to discuss the application informally and to provide the applicant with the results of the staff review of the proposal and to identify those ways in which the proposed use complies or fails to comply with the intent of the Zoning Code and the standards for approval. The views expressed by the staff shall be for informational purposes only and designed to afford the applicant the opportunity to revise the application prior to its formal submission to address staff concerns.

(c) Review by Planning and Zoning Commission. The Zoning Administrator shall forward the complete application, along with any changes made by the applicant pursuant to par. (b) to the Planning and Zoning Commission and shall schedule a public hearing on the application before the Commission. Public notice of the hearing shall be provided by publication of a Class 1 notice pursuant to Ch. 985, Wis. Stats. The date of the hearing shall be between fourteen (14) and forty-five (45) days after the final complete application is filed.

(d) Commission Action. The Planning and Zoning Commission shall consider all comments made at the public hearing and any recommendations made by Village staff or consultants. The Commission, by resolution, shall within sixty (60) days of the public hearing, approve, approve with conditions or reject the application, except where the applicant provides an extension in writing. The Commission shall make findings as to whether or not the proposed use will satisfy each of the standards for approval set forth in par. (f) and such findings shall be recorded in the minutes of the Commission.

(e) Appeal to the Village Board. An appeal of a decision under par. (d) may be taken to the Village Board by any person, firm or corporation; any officer, department, board, commission or agency of the Village or, in the case of lands within the ETZ Area, the town in which the affected land is located, who is aggrieved by the decision. Such appeal shall be made in writing to the Zoning Administrator within ten (10) days after the date of the Planning and Zoning Commission's decision. In the case of an appeal:

1. The Zoning Administrator and Building Inspector shall issue no permits to enable commencement or continuation of building and other activities authorized by the

conditional use permit, and shall issue a "stop work" order for any such activities already commenced.

2. The Zoning Administrator shall immediately notify the applicant and property owner of the appeal in writing, and shall schedule the appeal for Village Board consideration.
3. The Village Board shall, by resolution, make a final decision to grant, with or without conditions, or to deny each application for a conditional use permit after receiving and reviewing the Commission's findings and making its own findings as to whether or not the proposed use will satisfy the standards for approval set forth in par. (f), and shall have all of the powers of the Commission under par. (g) and sub. (6). The Village Board's determination shall be final and subject to appeal to the circuit court under any procedure authorized by statute.

(f) Standards for Approval. No conditional use permit shall be granted unless the Planning and Zoning Commission finds that the use authorized thereby, as limited by any enforceable conditions:

1. Will be consistent with the purposes and intent of the zoning code, and will not adversely affect the public health, safety or welfare;
2. Will not be hazardous, harmful or otherwise adverse to the environment or to the reasonable use and value of nearby properties or the community in general;
3. Will be compatible with the existing uses of, and structures upon, surrounding properties, and will not impede the normal and orderly development and improvement of other properties for uses permitted in the district;
4. Will be designed and operated in a manner which minimizes adverse effects, including visual impacts, on surrounding properties and the community as a whole;
5. Provides adequate means of ingress and egress so as to minimize traffic congestion in the public streets and will not cause any significant traffic problems;
6. Has, or makes provision for, adequate utilities, access roads, drainage and other necessary site improvements;
7. Will be consistent with the applicable Comprehensive Plan and any adopted Detailed Neighborhood Plan for the area in which it is located;
8. Conforms to all other applicable requirements for the zoning district in which it is located, and all applicable standards in §§15.11 and 15.12; and
9. If within the A-1 Ex or A-4 district:
 - i. The use and its location in the district are consistent with the purpose of the district.
 - ii. The use and its location in district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

- iii. The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- iv. The use does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
- v. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible. [am. 15-044; eff. 12-24-15]

(g) Conditions on Approval. In granting any conditional use permit, the Planning and Zoning Commission may impose such conditions and restrictions upon the establishment, location, construction, maintenance and operation of the proposed use as it determines to be reasonably necessary to protect the public health, safety and welfare and to assure continued compliance with each of the standards set forth in par. (f). The Commission may require such written agreements, deed restrictions, easements or other documents as it deems necessary to assure that any conditions imposed will be satisfied. The conditions and restrictions imposed may include, without limitation, specifications for any or all of the following:

1. Landscaping;
2. Type of construction;
3. Construction schedules and completion dates;
4. Sureties;
5. Lighting;
6. Fencing;
7. Operational controls and restrictions;
8. Hours of operation;
9. Traffic circulation and access restrictions;
10. Setback and yard requirements;
11. Sewage and water supply systems;
12. Screening of exterior structures or operations;
13. Off-street parking;
14. Limits on the timeframe that the conditional use permit will remain valid.

(h) Issuance of Permit. Upon approval of a conditional use permit application by the Planning and Zoning Commission and the provision of such guarantees established as conditions of such approval, the Zoning Administrator shall issue a conditional use permit setting forth the authorized use and all restrictions and conditions placed thereon, subject to the appeal provisions of subsection (e). Copies of all such permits shall be maintained in the files of the Zoning Administrator and the Building Inspector, and may be recorded by the Village against the property and placed on the official zoning map. In the event the Village Board rejects or modifies a conditional use permit on appeal, the conditional use permit shall be null and void.

(i) Extraterritorial Provisions. If all of the property for which an application is submitted under this section is located in the ETZ Area, the appropriate Joint Committee shall act in lieu of the Planning and Zoning Commission and shall have all of the powers and duties of the Commission under this section. Any appeal of the Joint Committee's action shall proceed according to subsection (e). The appropriate Joint Committee shall act jointly with the Planning and Zoning Commission in reviewing and making recommendations on any application partially within the ETZ Area and shall hold all required hearings jointly.
[Am. 13-021, Eff. 10-10-13]

(4) MINERAL EXTRACTION OPERATION PERMITS.

(a) Applicability. The subsection shall apply to all mineral extraction operations and applications for conditional use permits authorizing such operations.

(b) Application Requirements. An application for a conditional use permit to conduct a mineral extraction operation shall include a written description of the proposed operation including a time schedule of development and termination, a site plan and a topographic reclamation plan.

(c) Setbacks. Excavations below the grade of an abutting public street or highway shall be set back from the street or highway a distance at least equal to the required building setback distance provided in the district regulations.

(d) Soil Reclamation. Topsoil from the area of operation shall be saved and stored on site for reclamation of the area. Proposed storage areas shall be shown on the site plan.

(e) Site Restoration. Restoration of the area of operations is required as follows:

1. Final slopes shall not be graded more than 3:1 except in a quarry operation.
2. The area shall be covered with topsoil and seeded to prevent erosion.
3. The area shall be cleared of all debris and left in a workmanlike condition subject to the approval of the Zoning Administrator.

(f) Nonconforming Operations. Mineral extraction operations which existed prior to 1969 and were registered with, and approved by, the Dane County Zoning Administrator shall be considered nonconforming uses in accordance with sec. 15.17.

(5) SPECIAL REQUIREMENTS FOR LARGE RETAIL ESTABLISHMENTS. In addition to the requirements of sub. (3), an application for a conditional use permit for approval of a retail or commercial service building in excess of 20,000 ft² gross floor area shall include a written Compatibility Report containing all of the information required in pars. (a) through (f).

(a) A description of how the proposed development is compatible with adopted Village Plans, including the Comprehensive Plan, Detailed Neighborhood Plans, and other plans officially adopted by the Village;

(b) A completed Development Questionnaire form prepared and approved by the Zoning Administrator providing such information concerning the details of the proposed development as the Zoning Administrator determines necessary or appropriate to allow for full evaluation of the size, scope, nature and details of the proposed development;

(c) A Community Impact Analysis which shall include the following elements:

1. Identification and assessment of the impacts of proposed project, including positive, negative, and indirect impacts.
2. Proposed measures to mitigate adverse impacts and/or maximize positive impacts including provision of infrastructure or public services improvements sufficient to

support the project. Any adverse impacts that cannot be mitigated shall be identified.

3. An Economic Impact Analysis including the following information:

- i. A description of the types of jobs to be created and their wage ranges;
- ii. An estimate of the number of full-time (40 hrs/wk) and part time (less than 40 hrs/wk) jobs to be created;
- iii. An estimate of the amount of local labor to be used in the construction of the project and in employment positions created by the project. Local labor shall be estimated both in terms of Village and county residents or businesses;
- iv. An evaluation of the market and financial feasibility of the project, including a trade area analysis indicating the market proposed for the project and the area from which patrons will be attracted, and any plans for phased construction. The evaluation shall include any further market studies prepared for the project by the applicant;
- v. An analysis of whether the proposed project will result in more than one acre of commercial land for every 150 residents of the Village;
- vi. An evaluation of the impact of the proposed project on commercial vacancy rates in the Village of DeForest and nearby sites;
- vii. An estimate of the extent to which the proposed project will reduce the diversity of the Village's economic base by eliminating smaller businesses;
- viii. An evaluation of the projected costs and benefits to the community resulting from the project including:
 - (a) projected costs arising from increased demand for, and required improvements to, public services and infrastructure, including an explanation of the level of services required;
 - (b) the value of improvements to public services and infrastructure to be provided by the project;
 - (c) the projected tax revenues to the Village of DeForest to be generated by the project;
 - (d) the projected impact of the project on land values (both residential and commercial) and the potential resultant loss or increase in tax revenues to the Village of DeForest;
 - (e) a short-term and long term projection of increased revenues to the Village of DeForest, and costs resulting from the proposed project;

(f) A comparison between the amount of revenue generated by the proposed project that will be retained and redirected back into the economy of the Village of DeForest trade area and that which is so retained and redirected by other chain stores and locally-owned, independent retailers in the Village of DeForest trade area; and

(g) An estimate of the extent to which the proposed project would preclude higher value development on the site.

ix. The projected lifespan of the proposed buildings;

x. A copy of all written policies maintained by the proposed users of the site on corporate giving and volunteer participation in the community.

(d) For development totaling over 40,000 square feet of gross floor area, a completed Transportation and Traffic Impact Analysis in a format consistent with the requirements of the State of Wisconsin WisDOT District 1;

(e) For developments which include more than 40,000 square feet of gross floor area, an escrow fund in an amount determined by the Zoning Administrator to be sufficient to reimburse the Village for its costs in hiring a consultant of its choice with appropriate experience to complete and present an Economic and Fiscal Impact Analysis.

(f) Unless the entire project is included in an adopted Detailed Neighborhood Plan, a conditional use application which includes development exceeding 80,000 square feet in total gross floor area of all combined buildings for retail or commercial service uses within the development shall be accompanied by a Detailed Neighborhood Plan for all areas within one thousand five hundred (1,500) feet of the subject property, as measured from the outer perimeter of the subject property or group of properties proposed for development, and other nearby lands as determined by the Plan Commission and Village Board to be part of the neighborhood. The Detailed Neighborhood Plan shall clearly demonstrate the provision of land use, multi-modal transportation, utility, stormwater management and community character components, and patterns that clearly forward the objectives of the Village's Comprehensive Plan, as determined by the Plan Commission and Village Board. The Detailed Neighborhood Plan shall be approved by the Village Board as a precondition to approval of the conditional use permit. The Detailed Neighborhood Plan shall contain the following specific elements at a scale of not less than 1 inch equals 400 feet:

1. Land use with specific zoning districts and/or land uses;
2. Transitional treatments such as berms and/or landscaping between areas with differing land uses or character;
3. A complete public and private road network;
4. A pedestrian and bicycle network;
5. Transit routes and stops, including possible park-and-ride locations, where applicable;
6. A conceptual stormwater management network;

7. Public facility sites including parks, schools, conservation areas, public safety facilities and public utility facilities;
8. Recommendations for community character themes including building materials, landscaping, streetscaping and signage.

(g) Use Restrictions Prohibited. Where any building requiring a conditional use permit under this subsection is proposed as a replacement location for a business already located within the Village, the permit shall be conditioned upon an agreement by the applicant and the proposed occupant of the building that it will not impose any restriction on the type of reuse which may be made of the previously occupied building through conditions of sale or lease.

(6) LIMITED CONDITIONAL USE PERMITS. In any case where requested by the applicant, or in lieu of denial of an application where the Planning and Zoning Commission finds that the standards set forth in par. (f) will be satisfied during a limited period of time, the Commission may grant a limited conditional use permit. The Commission shall specify in the resolution granting the permit a date, or objectively determinable event, upon which the permit will expire and set forth the reasons for the limitation.

(7) TEMPORARY USE PERMITS. Any use allowed in the applicable zoning district (whether as a permitted or conditional use) may be permitted by the Zoning Administrator without a requirement for a conditional use permit for periods of not more than ninety (90) days in any calendar year on any zoning lot as provided in this section. Such authorization shall be in the form of a temporary use permit issued by the Zoning Administrator setting forth the allowed use, the dates during which the use is permitted, and any conditions or restrictions determined necessary by the Zoning Administrator to meet the standards in subsection (3)(f) and other requirements of this chapter. Appeals from decisions of the Zoning Administrator shall be made to the Board of Zoning Appeals in accordance with §15.03 and the rules of the Board of Zoning Appeals. A temporary use permit may be issued only upon an application in compliance with sub. (3)(a) and upon a finding by the Zoning Administrator that:

- (a) The proposed used will, for the period allowed, satisfy all of the standards of sub. (3)(f);
- (b) The use proposed has not generated objections within the previous two years and is not likely to generate significant public comment, such that a public hearing appears necessary;
- (c) No member of the Planning and Zoning Commission or Village Board has objected to the issuance of temporary use permits for the same or a similar use within the previous two years; and
- (d) If the subject property is located in the ETZ Area, no member of the Joint Committee or the Town Board of the town in which the land is located has objected to the issuance of temporary use permits for the same or similar use within the last two years. A decision by the Zoning Administrator to refuse a request for a temporary use permit shall not be deemed a final decision for purposes of appeal, but the application shall, at the request of the applicant, be treated as an application for a regular or limited conditional use permit and be processed according to the procedure in sub. (3).

[Am. 08-14; Eff. 5-16-08; Am. 11-10; Eff. 4-16-11; Am. 13-021, Eff. 10-10-13]

(9) TEMPORARY CAMPGROUND ASSOCIATED WITH SPECIAL EVENT.

(a) Applicability. This subsection shall apply to all temporary accommodations to tourists and guests during special events open to the public in tent, recreational vehicle (RV), or trailer camper accommodations and to applications for conditional use permits authorizing such accommodations in conjunction with special events.

(b) Permitted Zoning Districts. Temporary camping accommodations as described in par. (a) may be allowed by conditional use permit in certain zoning districts, per Tables 15.10A, 15.11A, 15.12A, and within planned unit development zoning districts if approved by the Village Board. Within residential zoning districts, such uses may be allowed only for civic, cultural, educational, recreational, or religious entities and only on lots where the pre-existing principal use is an approved civic, cultural, educational, or religious institution.

(c) Maximum Number and Duration: Uses approved under par. (b) shall not continue for more than a ten (10) day period for any approved special event and each lot (or set of contiguous lots under unified ownership) shall be limited to a maximum of two (2) events per calendar year.

(d) Application Requirements. In addition to the requirements of sub. (3), an application for a conditional use permit shall include the following information:

1. Name(s), address(es), and telephone number(s) of the owner(s), applicant(s) and location of the site.
2. Details and description of the event, including precise dates, times, location, and estimated number of attendees.
3. Description of provisions for potable water supplies/water stations, sanitary bathroom facilities, and waste disposal structures. No direct discharge of any wastewater shall be permitted on site.
4. Site plan, professionally drawn to a recognized scale, indicating and labeling:
 - i. All existing buildings, parking lots, driveways, and other applicable site improvements.
 - ii. The proposed event area and parking and/or camping area, including the number of parking /camping spaces and surface cover of the area. Recreational vehicles used for camping will be permitted only on hard surfaces and all vehicles shall be spaced to allow at least ten (10) foot wide aisles for ingress and egress in all locations.
 - iii. Adequate space for ingress, travel, and egress for emergency and recreational vehicles to a public street.
 - iv. Locations of other structures on property including tents, tables, or inflatable structures.
 - v. Locations and dimensions of temporary signage.

vi. Detailed site information if there will be grading, toilet facilities, showers, or other temporary or permanent site improvements made.

(e) **Review Process.** The review process shall be as provided in sub. (3). In addition, prior to Planning and Zoning Commission action, the Village Public Safety Committee shall provide a recommendation on the proposal if located within the DeForest Area Fire and EMS District. [Am. 13-021, Eff. 10-10-13]

(10) **SOLID WASTE RECYCLING CENTERS; SALVAGE RECYCLING CENTERS.**
[Cr. 20-27, Eff. 12-25-20]

(a) **Applicability.** This subsection shall apply to the establishment, expansion, or modification of all solid waste recycling centers as defined in Section 15.02(86m) and salvage recycling centers as defined in Section 15.02(80r).

(b) **Permitted Zoning Districts.** Solid waste recycling centers and salvage recycling centers as described in par. (a) may be allowed by conditional use permit in certain zoning districts, per Tables 15.10A, 15.105A, 15.11A, 15.115A, and 15.12A, and within planned unit development zoning districts if approved by the Village Board.

(c) **Application Requirements.** In addition to the requirements of sub. (3), an application for a conditional use permit shall include the following information:

1. A written description of the proposed operation, including the types and quantities of materials that would be processed; proposed date to begin operations; where materials would be hauled from and to and over what roads; types, quantities, weights, and frequency of use of trucks and other equipment to move, process, and haul materials within, to, and from the site; which activities would be performed on site and how frequently; description and dimensions of all temporary and permanent structures; proposed hours and days of operation; existing natural features on and adjacent to the site; environmental protection measures; measures that will be used for prevention and control of spills, dust, odors, and noise, and for pest and vermin management; methods to keep all public roads and nearby properties free of all mud, debris, and dust; a listing of all applicable regulations, licenses, and permits required and status of obtaining these.
2. A operations plan map, drawn to scale by a qualified professional, and including site boundaries; existing roads, driveways, entrances, and utilities; existing natural features including lakes, streams, floodplains, wetlands, and shoreland areas; location of proposed staging, fueling, fuel storage, and material and equipment storage and processing areas; proposed location and surfacing of roads, driveways, and site access points; proposed transportation and loading/unloading plan; proposed development or expansion phasing plan, if any; proposed fencing and screening of property and gating of access points; proposed locations of material stockpiles and other outdoor operations (if permitted); and proposed temporary and permanent structures including scales and offices.

(d) **Review Process.** The review process shall be as provided in sub. (3). In addition, the Zoning Administrator shall request review by the Fire Chief or designee prior to Planning and Zoning Commission action.

(e) **Performance Standards.** In addition to the general performance standards in Section 15.04(12), the general conditional use permit approval standards in sub. (3)(f), and other

applicable provisions of this chapter, each new, expanded, or modified solid waste recycling center and salvage recycling center shall meet the following standards as applicable:

1. The applicant shall obtain all required federal, state, county, and village permits and licenses (including a junk dealers license if required under Section 9.06 of the Municipal Code), and provide copies of all such permits and licenses to the Village Zoning Administrator immediately upon applicant receipt or in another timeframe specified by the conditional use permit.
2. The conditional use permit may include limits on the amount of time the use shall remain in operation and/or hours and days of operation.
3. All outdoor storage yards, service yards, loading docks, exterior work areas, and dumpsters shall be completely screened from view from all public rights-of-way and all properties outside of industrial zoning districts.
4. All areas for the parking of motor vehicles used in the operation shall be hard surfaced, have spaces striped, and be separated from on-site loading, unloading, and service areas.
5. The use shall be established and maintained so as to not create a fire hazard as determined by the Fire Chief or designee.
6. Operations shall not involve the on-site holding, storage, processing or disposal of hazardous materials, food scraps, or other vermin-attracting materials. The conditional use permit may restrict the storage and processing of organic waste.
7. For solid waste recycling centers, there shall be no material storage or operations outside of enclosed buildings, except for the following as may be limited by conditional use permit: temporary staging of outbound recyclable materials in bales and packages before loading onto trucks for shipment (no loose consumer materials in open bins); temporary parking of operable motor vehicles actively used by employees, suppliers, customers, or contractors; outdoor weighing of inbound and outbound trucks/loads; temporary trailer and dumpster storage; and unloading, loading, and storage of compostable material stockpiles in public compost sites. For salvage recycling centers, outdoor operations, material stockpiles, and other outdoor operations may be limited by conditional use permit.
8. Except where specifically authorized by conditional use permit, all transfer of recyclable or salvage materials occurring on-site shall be performed by employees, contractors of the operation, or licensed haulers of such materials.
9. Trucking activity may be limited to a maximum number of trips per day, types of vehicles, and/or routes, as indicated in the approved operational plan and/or conditional use permit.
10. To prevent tracking of mud onto public roads, access driveways shall be hard surfaced within 100 feet of public roads.

11. Public roads and properties serving all such uses shall be kept free of mud, debris, dust, and recyclable and other materials, via sweeping, daily collection, or other means. No recyclable materials, trash, or other materials shall be allowed to migrate onto any property that has not been granted a conditional use permit for the solid waste recycling center or salvage recycling center use.
12. Access to the site shall only be through points designated as entrances on the site or operations plan. Such access points shall be secured when the site is not in operation.
13. The conditional use permit may include provisions for the upgrade, repair, and maintenance of public roads serving the use, which shall relate to the intensity of the operation and the existing condition and capacity of such roads. A bond or other performance guarantee for such work may be required as part of the conditional use permit, provided that a clear relationship is established between the operation and the need for road upgrades, repair, and maintenance.
14. If any public road is damaged or destroyed as a direct result of any such use, beyond normal wear and tear, the owner shall restore or pay for the restoration of the same to an acceptable condition and value. The owner shall have the right to show and bear the burden of proof in showing that the indicated damage was not the result of its operation.
15. The owner may be required to verify, through use of appropriate equipment and an analysis technique approved by the Zoning Administrator, that noise, odor, and other performance standards in Section 15.04(12) are met, and if not shall be subject to penalty under this chapter.

15.17 NONCONFORMING USES, STRUCTURES AND LOTS.

[Repealed & Recr. 13-021, Eff. 10-10-13]

(1) PURPOSE. It is necessary and consistent with the establishment of the various zoning districts by this chapter that buildings, structures and uses which do not conform to the district regulations be eliminated or made to conform to the regulations as soon as reasonable fairness to the property owner or occupant permits. The purpose of this section is to provide for the regulation of nonconforming buildings, structures and uses and to specify the circumstances and conditions under which nonconforming buildings, structures and uses may be continued in accordance with §§62.23(7)(h) and 62.23(7a), Stats. The provisions of this section are intended only to excuse, on the terms and conditions set forth herein, noncompliance with the regulations of this chapter, and nothing herein shall be construed to waive or modify any other statute, regulation or ordinance governing the use of land or the occupancy of any building.

(2) CONTINUATION OF A NONCONFORMING USE. Any nonconforming use lawfully established prior to the date it becomes prohibited by this Chapter may be continued without expansion and in a manner of operation existing upon such date, except as specified for nonconforming uses in this section.

(3) MODIFICATION OF A NONCONFORMING USE. A nonconforming use shall not be expanded, enlarged, extended, or reconstructed unless the use qualifies under subsection (5).

(4) DISCONTINUANCE OF A NONCONFORMING USE. When any nonconforming use of any structure or land is discontinued for a period of twelve (12) consecutive months, or is changed into different use, any future use of said structure or land shall be in complete conformity with the provisions of this chapter.

(5) MAINTENANCE AND REPAIR OF A NONCONFORMING USE. The ordinary maintenance and repair of a nonconforming use is permitted, including necessary repairs and incidental alterations that do not exacerbate the adverse impacts of the nonconforming use in relation to the intent and purpose of this chapter. Except as otherwise provided in this section, whenever a nonconforming use is damaged to the extent of more than 50 percent of the then-current equalized assessed value of the use and associated structure, such use shall not be restored except in conformity with the regulations of the district in which it is located. Notwithstanding the previous sentence, the structural repairs or alterations in a conforming structure containing a nonconforming use shall not during its lifetime exceed 50 percent of the equalized assessed value of said structure at the time of the first known structural repair or alteration, unless the use within said structure is permanently changed to a conforming use.

(6) CONTINUANCE OF NONCONFORMING STRUCTURE. Any structure lawfully established may be continued at the size and in a manner of operation existing upon such date, except as provided for nonconforming structures in this section.

(7) EXPANSION OF NONCONFORMING STRUCTURE. Any nonconforming structure may be extended, enlarged, reconstructed, moved, or structurally altered, provided that said extension, enlargement, reconstruction, movement or alteration does not create any new violation of any setback or building requirements of the zoning district, nor increase the degree of the existing nonconformity except as:

- (a) permitted under subsection (8),
- (b) required by law or governmental order,
- (c) required to comply with the provisions of this chapter, or
- (d) in accordance with a variance granted by the Zoning Board of Appeals.

(8) DAMAGED OR DESTROYED NONCONFORMING STRUCTURE. A damaged or destroyed nonconforming structure may be restored to the size, location, and use that it had immediately before the damage or destruction occurred, without any limits on the costs of the repair, reconstruction, or improvement, if all of the following apply:

- (a) The nonconforming structure was damaged or destroyed on or after March 2, 2006.
- (b) The damage or destruction was caused by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

(9) UNSAFE STRUCTURES. Nothing in this chapter shall preclude the Zoning Administrator from initiating remedial or enforcement actions when a lawful nonconforming structure is declared unsafe or presents a danger to the public health, safety, or welfare.

(10) FUTURE MODIFICATION OF NONCONFORMING STRUCTURES. When any lawful nonconforming structure in any district is modified so as to be in conformance with the provisions of this Chapter, any future modification of said structure shall be in conformance with the provisions of this Chapter.

(11) ORDINARY MAINTENANCE OF A NONCONFORMING STRUCTURES. Ordinary maintenance, repairs (including repairs reasonably necessary to prevent the deterioration of a structure), and remodeling of a nonconforming structure are permitted. Ordinary maintenance, repairs, and remodeling include internal and external painting, decorating, paneling, the addition of acoustical ceilings, the installation of heating, electricity, plumbing (including fixtures), insulation, and the replacement of doors, windows, and other non-structural components.

(12) TIMING OF BUILDING PERMIT. Any structure for which a building permit has been lawfully granted prior to an amendment to this Chapter causing the structure or use to become nonconforming, may be completed in accordance with the approved plans, provided construction is started within 365 calendar days after issuance of the permit, and construction is completed within the term of the permit. If all such conditions are met, the construction or alteration within the scope of the permit shall not be deemed a change in the use or an expansion of the nonconformity for purposes of this section.

(13) NONCONFORMING RECORDED LOTS. A lot of record lawfully created and not designated as an unbuildable outlot, but that does not meet one or more the minimum lot dimensional requirements for the zoning district may be utilized for a new permitted-by-right use in that district, provided the measurements of such lot area, dimensions, and setbacks are equal to or greater than 75 percent of the minimum requirements of the district. Said lot shall not be more intensively developed unless combined with one or more abutting lots (or portions thereof) so as to create a lot that meets the requirements of this Chapter.

CHAPTER 16

PARKS AND RECREATION

SUBCHAPTER I – PARKS AND RECREATION

16.01	Park Regulations	16-1
16.02	Use of Parks; Permits.....	16-5
16.022	Use of Village Recreational Equipment and Materials	16-8
16.025	Dog Parks	16-9
16.03	[Repealed 14-011, Eff. 1-17-14]	16-10
16.04	Penalty	16-10

SUBCHAPTER II – URBAN FORESTRY

[Cr. 05-38, Eff. 12-22-05]

16.20	Purpose and Intent	16-11
16.21	Definitions	16-11
16.22	Tree Advisory Board	16-11
16.23	Village Forester.....	16-13
16.24	Standards and Specifications	16-14
16.25	Public Nuisances, Declaration and Abatement	16-14
16.26	Planting, Maintenance and Removal of Public Trees and Shrubs	16-15
16.27	Tree Protection During Construction	16-16
16.28	Private Tree Maintenance	16-17
16.29	Penalty	16-17
16.30	Appeals.....	16-18

SUBCHAPTER I – PARKS AND RECREATION

16.01 PARK REGULATIONS.

(1) PURPOSE AND INTENT. The regulations set forth in this chapter are intended to protect and preserve the parks, parkways, recreational facilities and conservancy areas within the Village from injury, damage or desecration and to provide for the maintenance of certain park areas designated by the Village Board in a natural state.

(2) DEFINITIONS. As used in this chapter,

(a) "Ball Diamond" shall mean park facilities designed and improved primarily for use as baseball or softball fields for practice and/or competition.

(b) "Community Gardens" shall include all grounds and structures owned by the Village that the Village makes available for the noncommercial raising of vegetables, fruits, flowers and herbs for personal consumption or use.

(c) "Director" shall mean the Village's Director of Public Services.

(d) "Long Field" shall mean a park facility designed primarily for use as football, soccer, rugby or similar turf sports.

(e) "Motorized Vehicle" shall mean any motor vehicle as defined by §340.01(35), Wis. Stats., licensed for highway use, including neighborhood electric vehicles as defined by §3.115 of this Code, but excluding snowmobiles and all-terrain vehicles.

(f) "Motorized Equipment" means any vehicle, as defined by §340.01(74), Wis. Stats. other than a motor vehicle, and any other machinery or equipment powered by an internal combustion engine or electric motor designed to transport persons or movable property, other than an electric wheelchair used by a person with a disability. The term includes, but is not limited to, all-terrain vehicles, snowmobiles, construction equipment, motorized bicycles or skateboards, electric personal assistive mobility devices, riding lawn mowers, garden tractors and motorized farm equipment.

(g) "Parks" shall include all grounds, structures and water courses which are or may be located within any area dedicated to public use as a park, parkway, recreational facility or conservancy district in the Village.

(h) "Person" shall mean any individual, group of individuals, corporations or other legal entity.

(i) "Prairie Area" shall mean any park or detention basin so designated by resolution of the Village Board to be established, preserved or maintained in a natural prairie state.

(j) "Sanctioned Program" shall mean a league, recreational program or other group officially recognized by the Village as organized and operated to promote athletics without profit and more than 50% of whose membership is comprised of Village of DeForest residents.

[Am. 22-05, Eff. 3-2-22]

(k) "Local Adult League" shall mean a formal or informal group of adult athletic teams, at least one of which is comprised primarily of Village residents, which arranges regularly scheduled competitions among its member teams.

[Cr. 93-39, Eff. 10-8-93; Am. 19-08, Eff. 4-4-19]

(3) SPECIFIC REGULATIONS.

(a) Park Hours.

1. Public parks within the Village shall be open to the public beginning at 7:00 a.m. daily and shall be closed, and all activities therein shall be terminated, at 10:00 p.m. daily. No person shall enter or remain in any park at any time other than as provided in this section, unless specific written authority is first obtained from the Director of Recreation and Community Enrichment.

[Am. 21-01; Eff. 2-12-21]

2. The Village Board may extend the hours of operation for any park for a specified event. Any such extension shall specify the date and description of the event, the alternative opening or closing time approved and any restrictions imposed by the Village Board as a condition of the extension.

[Am. 02-41, Eff. 11-21-02]

(b) Smoking. No person shall smoke or hold a lighted cigarette, cigar or pipe in any structure within any park, or in any other area in any park where notices prohibiting smoking are posted pursuant to any order of the Village Board.

[Am. 15-02, Eff. 1-16-15]

(c) Littering Prohibited. No person shall litter, dump or deposit any rubbish, refuse, earth or other material in any park, except that any person lawfully using Community Gardens may deposit weeds and plant materials gathered from the Community Gardens in designated compost areas, and may apply compost, mulch and other customary horticultural substances and materials to the person's assigned Community Garden plot.

[Am. 13-09, Eff. 4-3-13]

(d) Sound Devices. No person shall operate or play any amplifying system unless specific written authority is first obtained from the Director of Recreation and Community Enrichment.

[Am. 15-02, Eff. 1-16-15; Am. 21-01; Eff. 2-12-21]

(e) [Repealed 13-11, Eff. 06-28-13]

(f) Bill Posting. No person shall post, paste, fasten, paint or attach any placard, bill, notice, sign or advertising matter upon any structure, tree or other natural object in any park, except park regulations and other signs authorized by the Village Board.

[Am. 15-02, Eff. 1-16-15]

(g) Throwing Stones and Missiles Prohibited. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park. This paragraph shall not apply to persons acting within the scope of specific permission from the Village Board in connection with a program of urban wildlife control approved by the Board.

[Am. 06-01, Eff. 2-7-06]

(h) Firearms, Fireworks, Bows and Arrows. No person shall shoot, fire or discharge any gun or pistol, nor possess, shoot, fire or discharge any rocket, torpedo, missile, bow and arrow, crossbow, slingshot or any fireworks or explosive device of any description, within or into any park unless specific written authority is first obtained from the Village Board. The word "gun" shall include firearms, gas-operated guns, pellet guns or any other device which will propel projectiles.

[Am. 01-49, Eff. 11-8-01; Am. 06-01, Eff. 2-7-06; Am. 15-02, Eff. 1-16-15]

(i) Golf, Hardball. No person shall shoot or strike a golf ball or throw or bat a hardball in any park, except that hardball may be played in areas designated for this purpose.

(j) Removal of Park Equipment Prohibited. No person shall remove benches, seats, tables or other park equipment from any park.

(k) Camping. No camping shall be permitted in any park, except when prior approval of the Village Board is first obtained.

[Am. 15-02, Eff. 1-16-15]

(l) Trapping. No person shall trap in any park unless specific written authority is first obtained from the Village Board.

[Am. 15-02, Eff. 1-16-15]

(m) Making of Fires. Except as provided in sec. 5.23 of this Code, no person shall start, tend or maintain a fire except in personal grills or designated fireplaces. Personal grills shall be used only in designated picnic areas. The use of personal grills is permitted provided lawns and vegetation are not endangered. Unburned fuel and ashes shall be disposed of in such a manner as to prevent fire or damage to any park property.

[Am. 93-39, Eff. 10-8-93; Am. 14-01, Eff. 1-17-14]

(n) Horse and Carriages. No person shall ride a horse or drive a horse-driven vehicle in any park, except on roads or designated bridle paths, except when approval of the Village Board is first obtained. It shall be unlawful for any person to ride a horse or drive a horse-drawn vehicle in a careless, negligent or reckless manner which may endanger the safety and well-being of others.

[Am. 15-02, Eff. 1-16-15]

(o) Bicycles. All ordinances of the Village relating to the use of bicycles shall be applicable in all parks. Bicycles shall be parked only in areas so designated.

(p) Interference With Permittee Prohibited. No person shall in any manner, harass, disturb or interfere with persons holding written permits granted by the Village Board for the use of parks, shelter areas or park facilities.

[Am. 15-02, Eff. 1-16-15]

(q) Protection of Park Property. No person shall kill, injure or disturb or attempt to injure or disturb waterfowl, birds or animals, wild or domestic, within any park. No person shall climb any tree or remove flowers or fruit, wild or cultivated, or break, cut down, trample upon, remove or in any manner injure, deface, write upon or ill use any tree, shrub, flower, flower bed, turf, soil, sand, fountain, ornament, building, structure, apparatus, bench, table, official notice, sign or other property within any park.

(r) Use of Water Areas. No person shall swim, wade, fish, ice skate or operate or propel a boat or canoe in any lagoon or watercourse within any park except in areas so designated and at times posted.

(s) Drinking in Parks Regulated. See sec. 10.03(6)(d) of this Code.

(t) Glass Beverage Bottles in Parks Prohibited. No person shall possess any glass beverage bottle within the limits of the parks of the Village.

(u) Persons Walking Animals Required to Remove Fecal Matter. The owner or person in charge of any animal shall not permit solid fecal matter of said animal to be deposited in any park unless such matter is immediately removed therefrom by said owner or person in charge.

[Cr. 95-3, Eff. 2-6-95]

(4) MOTOR VEHICLES AND EQUIPMENT. (a) General. Except for emergency vehicles, no person shall operate a motorized vehicle within a Village park outside of areas specifically designated as parking areas or areas where the operation of such vehicles is specifically authorized. Motorized vehicles are restricted to the roads, drives and parking

areas. No motorized vehicles of any nature may be used on grassy areas except vehicles which have authorization for shows, rides or exhibits. This section shall not apply to the use of motorized vehicles for maintenance by Village staff or by the holder of a permit granted under §16.02 while maintaining a reserved diamond under authorization by the Director of Public Services. [Am. 15-02, Eff. 1-16-15; Am. 21-06, Eff. 4-23-21]

(b) Authorized Equipment. Paragraph (a) shall not apply to the operation of motorized vehicles on public trails located within parks to the extent authorized by §3.118. [Sub. (4) Cr. 11-01, Eff. 2-3-11; Am. 11-09, Eff. 3-17-11; Repl & recr. 11-15, Eff. 4-29-11; Am. 13-09, Eff. 4-3-13; Am. 21-06, Eff. 4-23-21]

(5) ADMINISTRATIVE RULES.

(a) Adoption of rules. In addition to the general rules set forth in sub. (3), the Director of Recreation and Community Enrichment or the Village Administrator may promulgate administrative rules governing the use of parks and park facilities within the Village. Such rules shall be made with the purposes of protecting the health, safety, comfort and welfare of the users of the parks and facilities and others who may be affected by activities occurring in the parks, and of minimizing adverse impacts to the parks, park facilities and surrounding properties. Rules promulgated under this section shall take effect immediately upon posting of the rules at the affected facility, and shall continue in effect until rescinded by the officer adopting the rule or the Village Board.

[Am. 08-30, Eff. 10-9-08; Am. 15-02, Eff. 1-16-15; Am. 21-01; Eff. 2-12-21]

(b) Enforcement. The Director of Recreation and Community Enrichment, the Chief of Police or any law enforcement officer designated by the Chief, may suspend any person from further use of any park for violation of any rules adopted under par. (a). Such suspension shall remain in effect for the duration thereof as determined by the Director, Chief or officer when the suspension is imposed. The imposition of a suspension under this paragraph may be appealed to the Administrative Review Appeals Board under the provisions of Chapter 17 of this Code. The pendency of an appeal shall not stay a suspension. The Director shall refer any rule violations which also constitute violations of any ordinance of the Village to the Police Department for citation and prosecution.

[Am. 08-30, Eff. 10-9-08; Am. 15-02, Eff. 1-16-15; Am. 21-01; Eff. 2-12-21]

(d) The Public Services Committee may establish a sub-committee with membership as determined by the Committee, to consider and make recommendations to the Committee on matters related to Community Gardens and to provide horticultural advice and information to Community Garden users. Any such sub-committee shall be comprised solely of volunteers and shall not be considered a standing committee of the Village.

[Cr. 13-09, Eff. 4-3-13; Am. 15-02, Eff. 1-16-15; Am. 19-013, Eff. 7-26-19]

16.02 USE OF PARKS; PERMITS.

(1) The municipality owned parks, park facilities and shelter areas in the Village are primarily for the nonexclusive use of the residents of the Village. However, under proper circumstances, exclusive use of the same may be permitted. This section is intended to regulate exclusive use of municipally owned parks, park facilities and shelter areas in the Village to the end that the general welfare of the Village is protected.

(2) A person or group, firm, organization, partnership or corporation may request the exclusive right to use a park, park facility or shelter area located in the Village for a specified time by written application filed with the Director. The Director may approve the exclusive use of a plot in established Community Gardens by any person from May 1 until the last Sunday in October of a given year on terms and conditions approved by the Director.

[Am. 13-09, Eff. 4-3-13; Am. 15-02, Eff. 01-16-15; Am. 21-01; Eff. 2-12-21]

(3) Applications, other than for use of Community Garden plots, shall contain the following information regarding the proposed exclusive use:

(a) The name, address and telephone number of the applicant.

(b) If the exclusive use is proposed for a group, firm, organization, partnership or corporation, the name, address and telephone number of the headquarters of the same, and the responsible and authorized heads or partners of the same.

(c) The name, address and telephone number of the person who will be responsible for the use of said park, area or facility.

(d) The date when the exclusive use is requested and the hours of the proposed exclusive use.

(e) The anticipated number of persons to use said park, area or facility.

(f) Any additional information which the Director finds reasonably necessary to a fair determination as to whether a permit should be issued or the appropriate fee classification to be applied.

[Am. 13-09, Eff 4-3-13; Am. 15-02, Eff. 01-16-15]

(4) The Director may approve an application under this section upon such conditions as he or she may deem necessary to protect the public health, welfare and safety and the property of the Village, upon payment of the appropriate fee established under §16.021.

[Am. 95-3, Eff. 2-6-96; Am. 15-02, Eff. 01-16-15]

(5) An application under this section shall be denied for any of the following reasons:

(a) The proposed use may involve a violation of Federal or state law or any provision of this Code.

(b) The granting of the permit would conflict with another permit already granted or for which application is already pending.

(c) If the application does not contain the information required by sub. (3) above.

[Am. 15-02, Eff. 01-16-15]

(6) The application may be denied for any of the following reasons:

(a) The applicant is not a resident of the Village.

(b) The application is for use by a person other than a local adult league, and the Director determines that granting of the permit is likely to interfere with the availability of the facility for use by a local adult league.

(c) The proposed use is likely to materially interfere with a previously approved use of another park facility by another person or the general use of other areas of the park by Village residents.

(d) The proposed use may reasonably be expected to create a significant burden on law enforcement or other public services.

(e) The exclusive use may reasonably be anticipated to create a substantial risk of injury to persons or damage to property.

(f) The exclusive use is not sufficiently organized to minimize the risk that participants or others may engage in aggressive or destructive activity.

(7) Prior to granting any permit, the Director may require the permittee to file evidence of good and sufficient sureties, insurance in force or other evidence of adequate financial responsibility, running to the Village and such other third parties as may be injured or damaged, in an amount depending upon the likelihood of injury or damage as a direct and proximate result of the exclusive use sufficient to indemnify the Village and such third parties as may be injured or damaged thereby, caused by the permittee, its agents or participants. Whether or not sureties are required, the permittee shall fully reimburse the Village for any expenses it incurs to repair any damage (beyond normal wear) to the park or park facilities, to clean the reserved area at the expiration of the permit, to replace any keys or re-key any locks upon a failure of the permittee to return all keys to the Village and any cost incurred in obtaining such reimbursement, including reasonable attorney fees.
[Am. 05-04, Eff. 1-20-05; Am. 15-02, Eff. 01-16-15]

(8) A permit is not required for exclusive use of a park, park facility or shelter area for an event or gathering sponsored by the Village.

[Am. 11-01, Eff. 2-3-11]

(9) The Director, after granting a permit, or, in any event, the Village Board, may revoke a permit already issued if it is deemed that such action is justified by an actual or potential emergency due to weather, fire, riot, other catastrophe or likelihood of a breach of the peace or by major change in the conditions forming the basis of the issuance of the permit.

[Am. 15-02, Eff. 01-16-15]

(10) Each permit shall be in a form prescribed by the Director and shall designate the park, park facility or shelter area involved, date, hours of the exclusive use, purpose of the exclusive use and the name of the person, group, firm, organization, partnership or corporation to which the permit is issued. [Am. 19-08, Eff. 4-4-19]

16.021 PERMIT FEES AND DEPOSITS.

(1) All applications for park use permits shall be accompanied by a fee and key/cleanup deposit as established by the Village Board from time to time by resolution.

(2) FIELD MAINTENANCE.

(a) Use of Machinery. All preparatory and maintenance work on ball diamonds, long fields or other park areas requiring the use of motorized vehicles or equipment shall be performed only by authorized Village personnel. The Director shall, to the extent practicable, make such personnel available from time to time during the term of the permit as requested by a permit holder at the time of issuance of the permit. The Director shall charge a fee of \$30.00 per hour for each individual worker for the time so requested, which shall be payable at the time of issuance of the permit. The fee shall be calculated based on one-hour increments and any fraction of an hour shall be calculated as a full hour. If maintenance services are requested for more than one interval of time, the fee for each interval shall be separately calculated. Upon conclusion of the permit period, the Director shall determine the actual amount of time spent at the request of the permit holder and if the total charges exceed the amount previously paid, shall provide a report to the Village Finance Director, who shall invoice the permit holder for the balance due. Any amount so invoiced shall be payable within 30 days of the date of invoice.

(b) Supplies. In addition to all other fees required by this section, a permittee reserving a baseball or softball diamond shall pay the Village for all diamond drying agents determined necessary by the Director, or requested by the permittee, and used to improve playing conditions on the field during the reserved time.

(3) DEPOSITS. Deposits made pursuant to this subsection shall be returned to the applicant if the facilities for which the permit was issued are surrendered in a clean and undamaged condition upon expiration of the permit and all keys issued for access to the facilities are returned to the Village on the next business day. In the event the permittee is liable to the Village for any loss or damage as provided in §16.02(8), the amount thereof may be retained from the deposit and the balance, if any, returned to the permittee. Any deposit retained shall be deemed partial satisfaction of the permittee's liability to the Village and neither the retention of the deposit nor return thereof shall preclude the Village from recovering the balance of the amount due.

(4) SCHEDULING FEES. The Director or designee shall collect an annual fee for the scheduling of practices for all teams organized by a sanctioned program. The fee shall be \$25.00 per age group division included in the program. The Director or designee is authorized to designate an organization as a sanctioned program upon determining that it meets the criteria in §16.01(2)(i). Any person or organization aggrieved by a determination of the Director may appeal the decision to the Village Board.[Am. 22-05, Eff. 3-2-22; Am. 22-023, Eff. 9-7-22 and renum. by revisor]

16.022 USE OF VILLAGE RECREATIONAL EQUIPMENT AND MATERIALS.

[Cr. 14-20, Eff. 05-06-14; Am. 15-38, Eff. 10-20-15]

(1) GENERAL. The Parks, Recreation & Natural Resources Department may make available to the general public, recreational equipment and educational materials owned by the Village as provided in this section. The Department shall establish reasonable rules governing the loaning of such equipment and materials, including the length of time they may be retained, the care and use thereof, and other matters designed to assure the preservation of the equipment and materials in good condition and to reasonably maximize their availability to other residents.
[Cr. 14-20, Eff. 05-06-14; Am. 15-38, Eff. 10-20-15]

(2) AUTHORIZED EQUIPMENT AND MATERIALS. The Department may loan the following equipment to the general public at the rates provided herein. The Department shall require a deposit in the amount provided herein for each set of equipment and materials loaned, which shall be fully refundable if all equipment and materials are returned without damage and otherwise in accordance with the rules of the Department. In the event any of the equipment or materials is lost or damaged, the Department shall retain from the deposit the amount necessary to repair or replace the lost or damaged items, and refund the balance. The Department may adopt rules providing for the forfeiture of a portion of the deposit in the event the equipment and materials are not returned when due, with the sole purpose of encouraging compliance with adopted rules.

Equipment	Rental Rate	Deposit
Birdwatching equipment and educational materials	\$0.00/ 6-day	\$150.00
Bocce Balls	\$20.00/ 3-day	\$50.00
Bean Bag Toss Game	\$20.00/ 3-day	\$50.00
Giant Jenga	\$20.00/ 3-day	\$50.00
Giant Connect Four	\$20.00/ 3-day	\$50.00
Giant Checkers	\$20.00/ 3-day	\$50.00
Giant Yahtzee	\$20.00/ 3-day	\$50.00
Snow Shoes	\$10.00/ 3-day	\$50.00

[Cr. 14-20, Eff. 05-06-14; Am. 15-38, Eff. 10-20-15; Am. 20-05, Eff. 1-22-20]

16.025 DOG PARKS.

(1) Applicability. This section applies only to those parks designated by the Village Board as "dog parks."

(2) Dog Park Usage. Dogs are permitted to run unleashed in any designated dog park within the Village, subject to the following conditions:

(a) Dogs must remain on a leash while outside the designated off-leash area of any dog park.

(b) The owner or keeper of the dog must be present at all times while the dog is in the dog park and in proximity to the dog to maintain visual supervision and voice contact;

(c) The dog must be under the voice control of the owner or keeper at all times;

(d) No owner or keeper of dogs shall have more than 3 dogs under his or her supervision at any one time.

(e) The dog must have attached to its collar a valid permit tag issued under sub. (3) or the person supervising the dog must have in his or her possession a valid daily pass issued according to rules established by the Village Board.

(f) Aggressive dogs are prohibited from the dog parks and any dog exhibiting aggressive behavior shall be immediately removed from the park.

(g) Dog parks shall be closed from sunset to sunrise each day.

(h) No animals other than dogs are permitted in the dog parks.

(i) No female dog shall be allowed in the dog parks when in heat.

(j) No food, glass containers or smoking are permitted in the dog parks.

(k) The dog must have a current dog license tag issued by the Village or another governmental agency, or the person supervising the dog must have in his or her possession written proof that the dog is currently vaccinated against rabies.

(L) Use of the dog parks shall be subject to administrative rules under §16.01(5).

[Am. 19-013, Eff. 7-26-19]

(3) Annual Permit Tags. Annual permit tags shall be issued by the Village Clerk and shall be valid for the remainder of the calendar year during which they are issued. Permit tags shall be issued to Village residents without charge at the time of issuance or renewal of each dog license under §9.07(3)(b).

(4) Permit Fees. Dog park permit tags or daily passes may be purchased for any dog not licensed by the Village. The fee for an annual tag shall be \$20 for the first dog and \$5 for each additional dog under the ownership or control of the same person, and such tags shall be valid for the remainder of the calendar year during which they are issued. Daily passes shall be available for a fee of \$3.00 for each dog.

[Am. 14-36, Eff. 12-16-14]

(5) Replacement Tags. A replacement permit tag shall be available for a fee of \$3.00 upon certification by the owner that a properly issued annual tag has been lost or destroyed.

(6) Use of Permit Tags. No person shall permit a permit tag issued for one dog to be attached to the collar of another dog, or obtain a replacement tag unless an original tag for the same dog has been lost or destroyed. No person shall possess a permit tag unless that person is the owner or keeper of the dog for which the tag was issued.

(7) Any person violating any provision of this section shall be subject to forfeitures as provided in §20.04.

[Cr. 13-24, Eff. 9-27-13]

16.03 [Reserved]

16.04 PENALTY. Any person who violates any provisions of this subchapter, including a violation of any suspension issued under §16.01(4)(b), shall be subject to a penalty as provided in sec. 20.04 of this Code.

[Renum. 93-39, Eff. 10-8-93; Am. 08-22, Eff. 6-19-008]

SUBCHAPTER II – URBAN FORESTRY

[Subch. II Repl. & Recr. 09-25, Eff. 2-1-10]

16.20 PURPOSE & INTENT. This subchapter establishes policies, regulations and standards necessary to insure that the community will continue to realize the benefits provided by its urban forest. Activities regulated include, but are not limited to, the planting, transplanting, removal, maintenance and protection of trees and shrubs within the Village in order to eliminate and guard against dangerous conditions which may result in injury to persons using the streets, sidewalks or other public property; to promote and enhance the beauty and general welfare of the Village; to prevent damage to any public sewer, water main, street, sidewalk or other public property; to protect trees and shrubs located in public areas from undesirable and/or unsafe planting, removal, treatment and maintenance practices; and to guard all trees and shrubs within the Village against the spread of disease or pests. It is the intent of the Village Board that the provisions of this subchapter shall apply to all the trees, shrubs, or plants growing in or upon any public right-of-way or other public lands and to all trees within the boundaries of the Village.

16.21 DEFINITIONS. The following terms, as used in this subchapter, shall be defined as follows:

(1) “Public Tree” shall mean any tree located within a public right-of-way or upon any other lands owned or leased by the Village whether acquired by lease, purchase, gift, dedication, condemnation or otherwise.

(2) “Shrub” shall be defined as provided in §15.06(2)(i) of this Code.

(3) “Tree” shall mean any woody plant usually with a single stem unbranched at the base, reaching a height of fifteen (15) feet or more.

(4) “Tree Advisory Board” shall mean the board established under §16.22 and charged with implementation of this subchapter.

16.22 TREE ADVISORY BOARD.

(1) **CREATION AND MEMBERSHIP.** The DeForest Tree Advisory Board is hereby established to administer this subchapter. The Village Board shall serve as the Tree Advisory Board.

[Am. 19-013, Eff. 7-26-19]

(2) **POWERS AND DUTIES.** The Tree Advisory Board shall:

(a) Provide for the care of all trees and shrubs planted in the rights-of-way of all streets or highways, or in any park or other public areas of the Village;

(b) Prepare an urban forestry management plan, which shall include provisions for the planting, maintenance and protection of all public trees, and make amendments thereto as the Tree Advisory Board shall determine appropriate from time to time;

[Am. 19-013, Eff. 7-26-19]

(c) [Reserved]

(d) Prepare and maintain an inventory of trees and shrubs located in public areas within the Village and on private property along streets where street trees cannot be planted due to site limiting factors;

(e) Adopt rules and regulations for the protection and maintenance of trees and shrubs located on public property, and to protect the public health, safety and welfare against dangers resulting from any trees and shrubs, including any regulations deemed necessary to protect against injury or damage caused by the spread of disease, insects or fungus;

(f) Identify, improve and promote desirable tree and shrub species within the Village;

(g) Identify and maintain a list of tree and shrub species deemed to be nuisances due to their propensity to harbor pests or transmit diseases which endanger other trees or shrubs or the public health, safety and welfare. Any trees or shrubs so listed by the board shall be deemed public nuisances within the meaning of §11.01 of this Code;

(h) Apply for county, state, federal and private grant funds for the Village's urban forestry program;

(i) [Reserved]

(j) Provide a forum for, and encourage, public comments on Village tree and shrub projects and the urban forestry program;

(k) Encourage public participation in urban forestry practices and projects within the Village and the surrounding extraterritorial area;

(l) Conduct an Arbor Day observance each year;

(m) Inform and educate Village residents about the care of natural areas in their neighborhoods;

(n) Undertake programs for education of the public with regard to the benefits of urban trees, the proper selection, planting and care of urban trees and other matters relating to urban forestry as it deems appropriate;

(o) Maintain the "Tree City USA" status of the Village;

(p) Provide plan review and technical assistance to the Planning & Zoning Commission or any other board, committee or commission of the Village upon request, and provide technical advice and assistance with respect to matters affecting the urban forest to the public on such terms and conditions as determined by the board.

(3) LIMITATION ON REGULATIONS. Except as provided in sub. (4), and notwithstanding the provisions of sub. (2), the regulations established by the Tree Advisory Board shall not apply to the extent they conflict with the applicable provisions of §15.06. The planting of any tree or shrub required or approved by the Planning & Zoning Commission as part of a landscaping plan required under §15.06 shall not be prohibited by the regulations adopted by the Tree Advisory Board.

(4) EMERGENCY AUTHORITY. In addition to the general powers of the Tree Advisory Board, and without limitation by sub. (3), the Tree Advisory Board may issue emergency orders to temporarily prohibit, limit, or regulate the planting, pruning, spraying, fertilizing, cutting, removal or handling of any tree or shrub, any species of either, or any brush, wood or other materials derived therefrom, within the Village if deemed necessary to prevent threatened harm to any tree or shrub or to the public health, safety or welfare. Any such order shall not become effective until posted in at least 3 public places within the Village. The regulations shall be published as a Class I notice in the official Village newspaper as soon as practicable after their adoption and upon any amendment. If the order applies only to an individual property, the order shall not be enforced until a copy thereof is served upon the owner of such property by personal delivery or certified mail. Emergency regulations adopted pursuant to this subsection shall remain in effect for a period determined by the Tree Advisory Board.

[Am. 19-013, Eff. 7-26-19]

16.23 VILLAGE FORESTER. (1) APPOINTMENT. The Village Forester shall be appointed by, and shall serve at the pleasure of, the Village Board.

(2) POWERS AND DUTIES. The Village Forester, subject to the direction of the Tree Advisory Board and the Director of Public Services, shall have the following general powers and duties:

(a) To direct, manage, supervise, and control the Village's urban forestry program including the planting, removal, trimming, maintenance, and protection of all trees and shrubs in or upon all public areas of the Village.

(b) To enforce such rules, regulations, permit, and penalty procedures as deemed necessary and may do so by the issuance of administrative orders and/or municipal citations to effectuate the intent of this chapter.

(c) To inspect any trees, shrubs, vines, hedges, plants, logs or branches existing or growing upon any property within the Village and to conduct surveys to determine if any destructive or communicable disease or pest exists which may be detrimental to or endanger the good health and wellbeing of trees or other plant life in public areas. If entry upon private property is necessary to carry out such duties, the Village Forester may, unless granted permission for such entry by the owner or occupant, apply for and execute a special inspection warrant.

(d) To restrict or regulate tree maintenance activities within the Village limits to reduce the spread of infectious diseases and/or insects.

(e) To provide information to the public concerning the urban forestry program and tree and shrub care.

(f) To implement and direct a Village Urban Forestry Management Plan.

(2) AUTHORITY TO PRESERVE AND REMOVE PUBLIC TREES AND SHRUBS. The Village Forester shall have the authority to plant, remove, maintain, and protect all public trees and shrubs or cause such work to be done as may be necessary to preserve the beauty of public areas, and to protect life and property.

16.24 STANDARDS AND SPECIFICATIONS. (1) The following standards and specifications, are hereby adopted and incorporated herein, and shall apply to all activities regulated by this subchapter:

(a) Forestry Specifications for Construction on Public Areas to be adopted by the Village Board with such amendments as may be approved by the Village Board from time to time.

(b) ANSI A300-1995 "American National Standard for Tree Care Operations – Tree, Shrub and Other Woody Plant Maintenance – Standard Practices Part 6" or the most recent version thereof.

(c) ANSI Z60.1-1996 "American Standard for Nursery Stock" or most recent version thereof.

(d) The Village's list of prohibited trees and shrubs approved by the Tree Board under §16.22(2)(g).

[Am. 15-01, Eff. 1-20-15]

16.25 PUBLIC NUISANCES, DECLARATION AND ABATEMENT. (1) The Village Forester shall have the right to declare as a public nuisance any tree or shrub or part thereof, including firewood, existing anywhere in the Village which is:

(a) Interfering with the use of any public area,

(b) Infected with a plant disease,

(c) Infested with insects, or

(d) Endangering the life, health or safety of other trees/shrubs, persons or property located in public areas.

(2) Village Forester shall maintain and make available to the public a list of recommended and discouraged trees and shrubs along with the list of prohibited trees and shrubs prepared under §16.22(2)(g).

[Am. 15-01, Eff. 1-20-15]

(3) Abatement of Public Nuisances.

(a) Public Areas. All trees, shrubs or parts thereof on public property shall be subject to treatment and/or removal when it is determined by the Village Forester or his/her designee that the trees or shrubs constitute an immediate or future health or safety hazard or when they have become unsightly, infested, diseased or dead. The Village Forester or his/her designee shall have the discretion to determine the most appropriate course of action to prevent or treat such conditions.

(b) Private Premises. No person shall permit any nuisance tree or shrub as determined under §16.22(2)(g) or Chapter 11 of this Code to remain on any premises owned or controlled by such person within the Village. Upon determination by the Village Forester that any nuisance tree or shrub exists on any private premises, he/she shall order the owner or tenant having charge of such premises to treat, remove or otherwise control

such tree or shrub in such manner as will abate the nuisance. Within notice reasonable time as specified in the order, the person shall cause treatment, removal or control of the nuisance tree or shrub as directed in the order. If the owner or tenant, shall refuse or neglect to comply with the terms of the order within the time specified, the Village Forester shall cause the public nuisance to be abated and shall report the expense thereof to the Village Clerk who shall enter it as a special charge against the property upon which the nuisance is located. Interest as provided in §1.09 shall apply to all invoices issued under this paragraph.

[Am. 15-04, Eff. 1-19-15]

16.26 PLANTING, MAINTENANCE, AND REMOVAL OF PUBLIC TREES AND SHRUBS.

(1) URBAN FORESTRY MANAGEMENT PLAN. The Urban Forestry Management Plan adopted by the Tree Advisory Board may contain any or all of the following elements:

(a) Street Tree Planting Plan. A proposed plan for the orderly and systematic planting of new or replacement trees in the terraces or boulevards along Village streets in a manner which minimizes conflicts between trees and other public use of streets, facilitates care of the trees, and enhances the aesthetics of the Village streetscapes. The plan shall designate the appropriate species of tree(s) for each street segment and shall take into consideration the mature size and requirements of the species, the width of the terrace or boulevard, depth of building setbacks, location of street lights, safety signals and signs, the location of overhead or underground public utility facilities, the location of existing desirable trees and any other relevant site factors. The plan shall be consistent with the requirements of §15.06 of this Code.

(b) Tree Maintenance. Plans for the maintenance of trees located in public places to preserve the function or beauty of such public places in accordance with the applicable Village maintenance standards. The plan shall provide plans for the trimming, removal, pruning, spraying, fertilizing or other treatment of any tree on any public place when necessary or appropriate to promote the general welfare, improve the Village's appearance or alleviate any unsafe condition.

(2) PROHIBITED ACTS. It shall be unlawful for any person to:

(a) Remove, destroy, cut, deface or injure any tree existing on any public place in the Village;

(b) Attach any rope, wire, chain, sign or any other device to any tree on any public place in the Village except as approved by the Village Forester or the Village Board;

(c) Permit any toxic chemical, gas, smoke, oil, or other injurious substance to seep, drain, or be emptied upon or about any public tree or shrub, excluding routine winter street maintenance by Village Departments;

(d) Participate in the erection, alteration or removal of any building or structure in the Village without assuring that any tree upon any public place in the vicinity of such operation is provided with a good and sufficient guard or protection so as to prevent injury, damage or defacement to such tree arising out of, in connection with or by reason of, such

operation. The sufficiency of the guard or protection shall be determined by the Village Forester;

(e) Interfere with the Tree Advisory Board or the Village Forester when carrying out their responsibilities under this subchapter;

(f) Plant, move, remove, prune or otherwise maintain any public tree or shrub except pursuant to a permit issued by the Village Forester pursuant to sub. (3);

(g) Plant or maintain any tree or shrub which is prohibited or which is declared a nuisance pursuant to Chapter 11 of this Code or by regulation adopted by the Tree Advisory Board;

(h) Fail or refuse to comply with any lawful rule, regulation or order issued by the Village Forester or Tree Advisory Board under this subchapter.

(3) PERMIT REQUIRED. (a) The Village Forester may issue a permit to any person allowing such person to plant, move, remove, prune or otherwise maintain any public tree or shrub in accordance with this subsection.

(b) Application and Approval. Any person desiring to plant, move, remove, prune or otherwise maintain any public tree or shrub shall apply in writing to the Village Forester for a permit to do such work. Such application shall specify the location and description of the proposed work. Such permit may be issued if the Village Forester determines that the proposed work is necessary and in accord with the purposes of this subchapter, taking into account the safety, health, and welfare of the public, location of utilities, public sidewalks, driveways and street lights, general character and aesthetic quality of the area in which the tree or shrub is located or proposed to be located, and the soil conditions and physiological needs of the tree or shrub, and that the work will be performed by a person capable of completing the work without unnecessary risk of injury or damage.

(c) Permit Form, Expiration, Compliance, and Inspection. Permits shall be issued by the Village Forester on the standard form for this purpose and shall include a description of the work to be done and shall specify the genus, species, variety, size, grade, and location of trees or shrubs to be planted, if any. Any work done under such permit shall be performed in strict compliance with the terms thereof and with the specifications and standards set forth in §16.24. The Village Forester shall inspect all work performed pursuant to this section. Permits issued under this section shall specify an expiration date not to exceed six (6) months after the date of issuance.

(d) Permit Exemptions. No permit shall be required to water or fertilize any public tree or shrub or to take the necessary action to guard the public safety or clear the public way in the event of a storm, accident or other emergency.

16.27 TREE PROTECTION DURING CONSTRUCTION.

(1) REVIEW OF PERMIT APPLICATIONS. The Village Forester shall review all applications for approval of construction in public rights-of-way and other public areas under §7.02, and shall make recommendations to the Building Inspector as to conditions or requirements necessary to adequately protect public trees and trees on property adjacent

to such public areas from damage due to the construction work. Such recommendation shall include compliance with all applicable standards contained in §16.24 unless the Forester shall determine that compliance therewith is unnecessary or impracticable under the circumstances.

(2) VILLAGE CONTRACTS. All Village contracts for public construction shall include or incorporate by reference the standards contained in §16.24 to the extent applicable to the construction project, provided, however, that the Village Forester may waive any standards the Forester determines to be unnecessary or impracticable under the circumstances. The decision of the Forester under this subsection shall be reviewable by the Village Administrator.

16.28 PRIVATE TREE MAINTENANCE.

(1) OAK PRUNING REGULATED. No person shall prune, cut or otherwise injure any oak tree on public or private property between April 1 and October 1 in any year, provided, however, that the Tree Advisory Board may authorize the issuance of permits to allow such pruning as may be necessary to protect the public safety and shall specify any conditions thereon deemed necessary to prevent the spread of Oak Wilt Disease.

(2) PRIVATE TREES. Property owners having trees or shrubs growing on their property outside of public right-of-way shall maintain such trees and shrubs such that they do not obstruct street lights, traffic signs or signals, street name signs or the free use of public ways and do not interfere with overhead or underground utility facilities.

16.29 PENALTY.

(1) GENERAL. Any person who shall violate any provision of this subchapter shall, in addition to any other remedy provided by this Code, be subject to a civil forfeiture of:

(a) not less than \$50.00 nor more than \$500.00 for a first violation;

(b) not less than \$100.00 nor more than \$500.00 for second and subsequent violations.

(2) CONTINUING VIOLATIONS. Each day a violation continues shall constitute a separate offense. Except as provided in sub. (3), each violation shall be considered a first violation unless 24 hours has elapsed following notice by the Village of the violation. Notice includes, but is not limited to:

(a) Oral or written notification or warning provided to the violator;

(b) The posting of a written notice on the premises where the violation has occurred;

(c) Service of a citation, summons or other document commencing any enforcement action; or

(d) Any other method of communication which provides actual notice of the violation to the violator.

(3) RECURRING VIOLATIONS. Notwithstanding the provisions of sub. (2), a violation shall constitute a second or subsequent violation if committed by a person who, within the previous 3 years, has been adjudicated guilty of a violation of this subchapter by any court of competent jurisdiction.

(4) PRIVATE REMEDIES PRESERVED. Nothing in this subchapter shall be construed in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have as a result of any nuisance.

16.30 APPEALS. Any person aggrieved by the administration or interpretation of any of the terms or provisions of this subchapter by any Village officer may, within ten (10) days after notice of the action appealed from, appeal to the Tree Advisory Board which may reverse, affirm or modify, in whole or part, the order, requirement, decision or determination of such officer. Any person aggrieved by a decision of the Tree Advisory Board may appeal that decision to the Village Board. Any appeal to the Village Board shall be filed in writing not later than 30 days after the date of the decision appealed or be barred.

CHAPTER 17

ADMINISTRATIVE REVIEW PROCEDURE

17.01	Purpose.....	17-1
17.02	Review of Initial Determination.....	17-1
17.03	Determinations Reviewable	17-1
17.04	Determinations Not Subject to Review	17-1
17.05	Administrative Review Appeals Board	17-2
17.06	Conflicting Code Provisions	17-2

17.01 PURPOSE. The purpose of this section is to afford a constitutionally sufficient, fair and orderly administrative procedure and review in connection with determinations by all Village officers, employees, agents, agencies, committees, boards and commissions which may involve constitutionally protected rights of specific persons which are entitled to due process protection under the 14th Amendment to the U.S. Constitution. Chapter 68, *Wis. Stats.*, relating to municipal administrative review procedure, shall be in full force and effect in the Village, except as to those provisions otherwise provided in this chapter.

17.02 REVIEW OF INITIAL DETERMINATION. Upon the filing of a written request by any person aggrieved to review an initial determination filed pursuant to the provisions of §68.08, *Wis. Stats.*, all Village officers, employees, agents, agencies, committees, boards and commissions receiving such a request shall conduct administrative reviews of their own determinations in accordance with §68.09, *Wis. Stats.* In addition, all such written requests shall be immediately referred to the Village Attorney.

17.03 DETERMINATIONS REVIEWABLE. The following determinations are reviewable under this chapter:

(1) The grant or denial in whole or in part after application of an initial permit, license, right, privilege or authority, except a fermented malt beverage or intoxicating liquor license denied for reasons other than as provided in sec. 9.10.
[Am. 22-26, Eff. 12-21-22]

(2) The suspension, revocation or nonrenewal of an existing permit, license right, privilege or authority, except as provided in sec. 17.04.
[Cr. 22-26, Eff. 12-21-22]

(3) The denial of a grant of money or other thing of substantial value under a statute or ordinance prescribing conditions of eligibility for such grant.

(4) The imposition of a penalty or sanction upon any person except a Village employee or officer, other than by a court.

17.04 DETERMINATIONS NOT SUBJECT TO REVIEW. Except as provided in sec. 17.03 of this chapter, the following determinations are not reviewable under this chapter:

(1) A legislative enactment, which is an ordinance, resolution or adopted motion of the Village Board.

(2) Any action subject to administrative or judicial review procedures under statutes other than Ch. 68, *Wis. Stats.*

(3) The denial of a tort or contract claim for money, required to be filed with the Village pursuant to statutory procedures for the filing of such claims.

(4) The suspension, removal or disciplining or nonrenewal of a contract of a Village employee or officer.

(5) The grant, denial, suspension or revocation of a fermented malt beverage license or intoxicating liquor license under §125.12(1), (2) and (3), *Wis. Stats.*

(6) Judgments and orders of a court.

(7) Determinations made during Village labor negotiations.

(8) Any action which is subject to administrative review procedures as otherwise provided in this Code.

(9) Notwithstanding any other provision of this chapter, any action or determination of a Village authority which does not involve the constitutionally protected right of a specific person or persons to due process in connection with the action or determination.

17.05 ADMINISTRATIVE REVIEW APPEALS BOARD.

(1) **MEMBERSHIP.** See sec. 1.03(8)(a) of this Code.

(2) **POWERS AND DUTIES.** The Board shall have the duty and responsibility of hearing appeals from initial determinations of administrative determinations or decisions of Village officers, employees, agents, agencies, committees, boards and commissions filed in accordance with §68.10, *Wis. Stats.* In conducting administrative review hearings and making final decisions, the Board shall be governed by §§68.11 and 68.12, *Wis. Stats.*

17.06 CONFLICTING CODE PROVISIONS. The provisions of this chapter shall not be deemed to repeal or supersede the provisions of any other section of this Code in conflict herewith or providing other procedures for review of administrative determinations within the Village except when otherwise specifically provided in said sections.

CHAPTER 18
CABLE TELEVISION FRANCHISE
[Repl. & Recr. 94-52, Eff. 12-5-94]

18.01	Definitions.....	18-1
18.02	Grant of Franchise	18-3
18.03	Term	18-3
18.04	Favored Nations	18-3
18.05	Conditions of Street Occupancy	18-3
18.06	Restoration of Public Ways.....	18-3
18.07	Relocation at Request of Franchising Authority.....	18-4
18.08	Relocation at Request of Third Party	18-4
18.09	Trimming of Trees & Shrubbery	18-4
18.10	Safety Requirements	18-4
18.11	Aerial and Underground Construction.....	18-4
18.12	Required Extension of Service	18-5
18.13	Subscribers Charges for Extension of Service.....	18-5
18.14	Service to Public Buildings.....	18-5
18.15	Franchise Fee	18-5
18.16	Rates & Charges	18-5
18.17	Renewal of Franchise	18-6
18.18	Conditions of Sale.....	18-6
18.19	Transfer of Franchise	18-6
18.20	Testing for Compliance	18-6
18.21	Books & Records	18-7
18.22	Insurance Requirements	18-7
18.23	Indemnification.....	18-7
18.24	Bonds & Other Surety.....	18-7
18.25	Notice of Violation.....	18-7
18.26	Grantee's Right to Cure or Respond.....	18-7
18.27	Public Hearing.....	18-8
18.28	Enforcement	18-8
18.29	Acts of God.....	18-8
18.30	Preemption	18-8
18.31	Actions of Franchise Authority & Grantee	18-8
18.32	Notice	18-9

18.01 DEFINITIONS. For the purpose of this Ordinance, the following terms, phrases, words and abbreviations shall have the meanings ascribed to them below. When not inconsistent with the context, words used in the present tense include the future tense, words in the plural number include the singular number, and words in the singular number include the plural number.

(1) "Affiliate" means an entity which owns or controls, is owned or controlled by, or is under common ownership with Grantee.

(2) "Basic Cable Service" is the tier of service regularly provided to subscribers that includes, but is not limited to, the retransmission of local broadcast television signals.

(3) "Basic Revenues" means the monthly Cable Service revenues received by Grantee from Subscribers for Basic Cable Service on an annual basis; provided, however, that such phrase shall not include:

(a) any revenues received from national advertising carried on the Cable System;

(b) any taxes on Cable Service which are imposed directly or indirectly on any Subscriber thereof by any governmental unit or agency, and which are collected by the Grantee on behalf of such governmental unit or agency.

(4) "Cable Act" means the Cable Television Consumer Protection and Competition Act of 1992, as amended.

(5) "Cable Service"

(a) means the one way transmission to Subscribers of video programming or other programming service, and

(b) Subscriber interaction, if any, which is required for the selection of such video programming or any other lawful communication service.

(6) "Cable System" means a facility, consisting of a set of closed transmission paths and associated signal generation, reception, and control equipment or other communications equipment that is designated to provide Cable Service and other service to Subscribers.

(7) "FCC" means the Federal Communications Commission, or successor governmental entity thereto.

(8) "Franchise" shall mean the authorization, or renewal thereof, issued by the Franchising Authority, whether authorization is designated as a franchise, permit, license, resolution, contract, certificate or otherwise, which authorizes construction and operation of the Cable System for the purpose of offering Cable Service or other services to Subscribers.

(9) "Franchising Authority" means the Village of DeForest, Wisconsin, or the lawful successor, transferee, or assignee thereof.

(10) "Grantee" means TCI Cablevision of Wisconsin, Inc., or the lawful successor, transferee, or assignee thereof.

(11) "Person" means an individual, partnership, association, joint stock company, trust corporation or governmental entity.

(12) "Public Way" shall mean the surface of, and the space above and below, any public street, highway, freeway, bridge, land path, alley, court, boulevard, sidewalk, parkway, way, lane, public way, drive circle or other public right-of-way, including, but not limited to, public utility easements, dedicated utility strips, or rights-of-way dedicated for compatible uses and any temporary or permanent fixtures or improvements located thereon or hereafter held by the Franchising Authority in the service area which shall entitle the Franchising Authority and the Grantee to use thereof for the purpose of installing, operating, repairing and maintaining the Cable System. Public Way shall also mean any easement

now or hereafter held by the Franchising Authority for the purpose of public travel, or for utility or public service use dedicated for compatible uses, and shall include other easements or rights-of-way as shall within their proper use and meaning entitle the Franchising Authority and the Grantee to the use thereof for the purpose of installing or transmitting Grantee's Cable Service or other service over poles, wires, cables, conductors, ducts, conduits, vaults, manholes, amplifiers, appliances, attachments, and other property as may be ordinarily necessary and pertinent to the Cable System.

(13) "Service Area" means the present municipal boundaries of the Franchising Authority, and shall include any additions thereto by annexation or other legal means.

(14) "Service Tier" means a category of Cable Service or other services provided by Grantee and for which a separate charge is made by the Grantee.

(15) "Subscriber" means a person or user of the Cable System who lawfully receives cable services or other service therefrom with Grantee's express permission.

(16) "Video Programming" means programming provided by, or generally considered comparable to programming provided by, a television broadcast station.

18.02 GRANT OF FRANCHISE. The Franchising Authority hereby grants to Grantee a non-exclusive Franchise which authorizes the Grantee to construct and operate a Cable System and offer Cable Service and other services in, along, among, upon, above, across, over, under or in any manner connected with Public Ways within the Service Area and for that purpose to erect, install, construct, repair, replace, reconstruct, maintain, or retain in, on, over, under, upon, across or along any Public Way and all extensions thereof and additions thereto, such poles, wires, cables, conductors, ducts, conduits, vaults, manholes, pedestals, amplifiers, appliances, attachments and other related property or equipment as may be necessary or appurtenant to the Cable System.

18.03 TERM. The Franchise granted pursuant to this Chapter shall be for a term of fifteen years from the effective date of the Franchise unless otherwise lawfully terminated in accordance with the terms of this Chapter. The effective date of this Franchise shall be January 1, 1995.

18.04 FAVORED NATIONS. In the event the Franchising Authority enters into a Franchise, permit, license, authorization, or other agreement of any kind with any other person or entity other than the Grantee to enter into the Franchising Authority's streets and Public Way for the purpose of constructing or operating a Cable System or providing Cable Service to any part of the Service Area, the material provisions thereof shall be reasonably comparable to those contained herein, in order that one operator not be granted an unfair competitive advantage over another.

18.05 CONDITIONS OF STREET OCCUPANCY. All transmission and distribution structures, poles, other lines and equipment installed or erected by the Grantee pursuant to the terms thereof shall be located so as to cause the least possible interference with the proper use of the Public Ways and with the rights and reasonable convenience of property owners or renters who own or rent property that adjoins any of said Public Ways.

18.06 RESTORATION OF PUBLIC WAYS. If during the course of Grantee's construction, operation or maintenance of the Cable System there occurs a disturbance of

any Public Way by the Grantee, it shall, at its expense, replace and restore such Public Way to a condition reasonably comparable, to the extent reasonably possible, to the condition of the Public Way existing immediately prior to such disturbance.

18.07 RELOCATION AT REQUEST OF FRANCHISING AUTHORITY. Upon its receipt of reasonable advance notice not to be less than five (5) business days, except for exigent circumstances where it may be less than five (5) business days, the Grantee shall, at its own expense, protect, support, temporarily disconnect, relocate in the Public Way, or remove from the Public Way, any property of the Grantee when lawfully required by the Franchising Authority by reason of traffic conditions, public safety, street abandonment, freeway and street construction, change or establishment of street grade, installation of sewers, drains, gas or water pipes or any other type of structures or improvements by the Franchising Authority; but the Grantee shall in all cases have the right of abandonment of its property. If public funds are available to any company using such street, easement or right-of-way for the purpose of defraying the cost of any of the foregoing, such funds shall also be made available to the Grantee.

18.08 RELOCATION AT REQUEST OF THIRD PARTY. The Grantee shall, on the request of any person holding a building moving permit issued by the Franchising Authority, temporarily raise or lower its wires to permit the moving of such building, provided:

- (1) The expense of such temporary raising or lowering of wires is paid by said person, including, if required by the Grantee, making such payment in advance; and
- (2) The Grantee is given not less than ten (10) business days advance written notice to arrange for such temporary wire changes.

18.09 TRIMMING OF TREES AND SHRUBBERY. The Grantee shall have the authority to trim trees or other natural growth overhanging any of its Cable System in the Service Area so as to prevent branches from coming in contact with the Grantee's wires, cables or other equipment. Grantee shall be permitted to charge persons who own, or are responsible for, such trees or natural growth for the cost of trimming, provided that similar charges are assessed by and paid to the utilities or the Franchising Authority for tree trimming. The Grantee shall reasonably compensate the Franchising Authority or property owner for any damages caused by such trimming.

18.10 SAFETY REQUIREMENTS. Construction, installation and maintenance of the Cable System shall be performed in an orderly and professional manner. All such work shall be performed as safe as reasonably possible and in accordance with applicable FCC or other federal, state and local regulations. The Cable System shall not unreasonably endanger or interfere with the safety of persons or property in the Service Area.

18.11 AERIAL AND UNDERGROUND CONSTRUCTION. In those areas where all of the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are underground, the Grantee likewise shall construct, operate and maintain all its transmission and distribution facilities underground; provided that such facilities are actually capable of receiving Grantee's cable and other equipment without technical degradation of the Cable System's signal quality. In those areas of the Service Area where the transmission or distribution facilities of the respective public utilities providing telephone communications and electric services are both aerial and underground, Grantee shall have the sole discretion to construct, operate and maintain all of

its transmission and distribution facilities, or any part thereof, aerially using existing poles when available, or underground. Nothing contained in this section shall require the Grantee to construct, operate and maintain underground any ground mounted appurtenances such as subscriber taps, line extenders, system passive devices (splitters, directional couplers), amplifiers, power supplies, pedestals or other related equipment. Notwithstanding anything to the contrary contained in this section, in the event that all of the transmission or distribution facilities of the respective public utilities providing communications and electric services are placed underground after the effective date of this Chapter, Grantee shall only be required to construct, operate and maintain all of its transmission and distribution facilities underground if it is given reasonable notice and access to the public utilities' facilities at the time such are placed underground.

18.12 REQUIRED EXTENSION OF SERVICE. The Cable System in existence appears to be in substantial compliance with the Ordinance. Grantee is hereby authorized to extend the Cable System as necessary, as desirable or as required pursuant to the terms hereof within the Service Area. Whenever Grantee shall receive a request for service from at least (15) Subscribers within 1,320 cable-bearing strand feet (one-quarter cable mile) of its trunk or distribution cable, it shall extend its Cable System to such Subscribers at no cost to said Subscribers for cable extension, other than the usual connection fees for all Subscribers; provided that such extension is technically feasible, and if it will not unreasonably affect the operation, financial condition or market development of the Cable System or as provided under sec. 18.13.

18.13 SUBSCRIBERS CHARGES FOR EXTENSION OF SERVICE. No Subscriber shall be refused service arbitrarily. However, the Grantee shall not be required to provide Cable Service to any customer located farther than 300 feet from the nearest distribution cable.

18.14 SERVICE TO PUBLIC BUILDINGS. The Grantee shall provide one (1) outlet of Basic Cable Service to the Franchising Authority's Public Safety Building, or Office of the Emergency Management Director. The fee for this service shall be at the basic subscriber rate, and shall be deducted from the annual Franchise fee payment, not be billed monthly.

18.15 FRANCHISE FEE. Grantee shall pay the Franchising Authority a franchise fee equal to five percent (5%) of Subscriber revenues received by Grantee from the operation of the Cable system on a annual basis; provided, however, that the Grantee may credit against any such payments any state, county or local sales taxes connected with this Franchise. For the purpose of this section, the 12-month period applicable under the Franchise for the computation of the franchise fee shall be the calendar year, unless otherwise agreed in writing by the Franchising Authority and Grantee. The franchise fee payment shall be due and payable ninety (90) days after the close of the preceding calendar year. Each payment shall be accompanied by a brief report showing the basis for computation. In no event shall the franchise fee payments required to be paid by Grantee exceed five percent (5%) of Subscriber revenues in any 12-month period.

18.16 RATES AND CHARGES. The Franchising Authority may not regulate the rates for the provision of Cable Service and other services, including, but not limited to, ancillary charges related thereto, except as expressly provided herein and except as authorized pursuant to federal and state law, including but not limited to, the Cable Act and FCC Rules and Regulations relating thereto. From time to time, and at any time, Grantee has the right to modify its rates and charges including, but not limited to, the implementation

of additional charges and rates; provided however, that the Grantee shall give notice to the Franchising Authority of any such modifications or additional charges thirty (30) days prior to the effective date thereof.

18.17 RENEWAL OF FRANCHISE. The Franchising Authority and the Grantee agree that any proceedings undertaken by the Franchising Authority that relate to the renewal of the Grantee's Franchise shall be governed by and comply with the provisions of sec. 626 of the Cable Act (as such existed as of the effective date of the Cable Act), unless the procedures and substantive protections set forth therein shall be deemed to be preempted and superseded by the provisions of any subsequent provision of federal or state law.

18.18 CONDITIONS OF SALE. Except to the extent expressly required by federal or state law, if a renewal or extension of Grantee's Franchise is denied or the Franchise is lawfully terminated, and the Franchising Authority either lawfully acquires ownership of the Cable system or by its actions lawfully effects a transfer of ownership of the Cable System to another party, any such acquisition or transfer shall be at a fair market price, valued as a collection of equipment. Grantee and Franchising Authority agree that in the case of a lawful revocation of the Franchise, at Grantee's request, which shall be made in its sole discretion, Grantee shall be given a reasonable opportunity to effectuate a transfer of its Cable System to a qualified third party. The Franchising Authority further agrees that during such period of time, it shall authorize the Grantee to continue to operate pursuant to the terms of its prior Franchise; however, in no event shall such authorization exceed a period of time greater than six (6) months from the effective date of such revocation. If, at the end of such time, Grantee is unsuccessful in procuring a qualified transferee or assignee of its Cable System which is reasonably acceptable to the Franchising Authority, Grantee and Franchising Authority may avail themselves of any rights they may have pursuant to federal or state law; it being further agreed that the Grantee's continued operating of its Cable System during the six (6) month period shall not be deemed a waiver, nor an extinguishment, of any rights of either the Franchising Authority or the Grantee. Notwithstanding anything to the contrary set forth in this section, neither Franchising Authority nor Grantee shall be required to violate federal or state law.

18.19 TRANSFER OF FRANCHISE. Grantee's right, title or interest in the Franchise shall not be sold, transferred, assigned or otherwise encumbered to any person or organization, other than to an Affiliate, without the prior consent of the Franchising Authority. Such consent shall not be unreasonably withheld. No such consent shall be required however, for a transfer in trust, by mortgage, by other hypothecation, or by assignment of any rights, title or interest of Grantee in the Franchise or Cable System in order to secure indebtedness.

18.20 TESTING FOR COMPLIANCE. The Franchising Authority may perform technical tests of the Cable System during reasonable times and in a manner which does not unreasonably interfere with the normal business operations of the Grantee or the Cable System in order to determine whether or not the Grantee is in compliance with the terms hereof and applicable state or federal laws. In the event that such testing demonstrates that the Grantee has substantially failed to comply with a material requirement , the reasonable cost of such tests shall be borne by the Grantee. In the event that such testing demonstrates that the Grantee has substantially complied with such material provisions , the cost of such testing shall be borne by the Franchising Authority.

18.21 BOOKS AND RECORDS. The Grantee agrees that the Franchising Authority may review its books or records during normal business hours and on a non-disruptive basis, as are reasonably necessary to monitor compliance with the terms hereof. Such records shall include, but shall not be limited to, any public records to be kept by the Grantee pursuant to the rules and regulations of the FCC. Notwithstanding anything to the contrary set forth herein, Grantee shall not be required to disclose information which it reasonably deems to be proprietary or confidential in nature. The Franchising Authority agrees to treat any information disclosed by the Grantee to it as confidential and only to disclose it to employees, representatives and agents thereof that have a need to know, or in order to enforce the provisions hereof, or as required by law.

18.22 INSURANCE REQUIREMENTS. Grantee shall maintain in full force and effect, at its own cost and expense, during the term of the Franchise, Comprehensive General Liability Insurance in the amount of \$2,000,000 combined single limit for bodily injury and property damage. Said insurance shall be non-cancelable except upon thirty (30) days prior written notice to the Franchising Authority.

18.23 INDEMNIFICATION. Grantee agrees to indemnify, hold harmless and defend the Franchising Authority, its officers, boards and employees from and against any liability for damages and for any liability or claims resulting from property damage or bodily injury (including accidental death), which arise out of the Grantee's construction, operation, or maintenance of its Cable System, including but not limited to, reasonable attorney's fees and costs.

18.24 BONDS AND OTHER SURETY. Except as expressly provided herein, Grantee shall not be required to obtain or maintain bonds or other surety as a condition or being awarded the Franchise or continuing its existence. The Franchising Authority acknowledges that the legal, financial and technical qualifications of the Grantee appear to be sufficient to afford compliance with the terms of the Franchise and the enforcement thereof. Grantee and Franchising Authority recognize that the costs associated with bonds and other surety may ultimately be borne by the Subscribers in the form of increased rates for Cable Service. In order to minimize such costs, the Franchising Authority agrees to require bonds and other surety only in such amounts and during such times as there is a reasonably demonstrated need thereof, such as, but not limited to, the Grantee's failure to perform under the terms of this Agreement. The Franchising Authority agrees that in no event, however, shall it require a bond or other related surety in an aggregated amount greater than \$50,000 conditioned upon the substantial performance of the material terms, covenants and conditions of the Franchise. Initially, no bond or other surety will be required. In the event that one is required in the future, the Franchising authority agrees to give Grantee at least sixty (60) days prior notice thereof stating the exact reason for the requirement. Such reason must demonstrate a change in the Grantee's legal, financial or technical qualifications which would materially prohibit or impair its ability to comply with the terms of the Franchise or afford compliance therewith, or past failure to perform under the terms of this Agreement.

18.25 NOTICE OF VIOLATION. In the event that the Franchising Authority believes that the Grantee has not complied with the terms of the Franchise, it shall notify the Grantee in writing of the exact nature of the alleged noncompliance.

18.26 GRANTEE'S RIGHT TO CURE OR RESPOND. Grantee shall have seven (7) days from receipt of the notice described in sec. 18.25 (a) to respond to the Franchising

Authority contesting the assertion or noncompliance or; (b) to cure such default or; (c) in the event that, by the nature of the default, such default cannot be cured within seven (7) day period, initiate reasonable steps to remedy such default and notify the Franchising Authority of the steps being taken and the projected date they will be completed.

18.27 PUBLIC HEARING. In the event that Grantee fails to respond to the notice described in sec. 18.25 pursuant to the procedures set forth in sec. 18.26, or in the event that the default is not remedied within sixty (60) days after the Grantee is notified of the alleged default pursuant to sec. 18.25, the Franchising Authority shall schedule a public meeting to investigate the default. Such public meeting shall be held at the next regularly scheduled meeting of the Village Board but not less than five (5) business days therefrom. The Franchising Authority shall notify the Grantee of the time and place of such meeting and provide the Grantee with an opportunity to respond.

18.28 ENFORCEMENT. Subject to applicable federal and state law, in the event the Franchising Authority, after such meeting, determines that Grantee is in default of any provision of the Franchise, the Franchising Authority may:

(1) Foreclose on all or any part of any security provided under this Franchise if any, including without limitation, any bonds or other surety; provided, however, the foreclosure shall only be in such a manner and in such amount as the Franchising Authority reasonably determines is necessary to remedy the default; or

(2) Commence an action of law for monetary damages or seek other equitable relief; or

(3) In the case of a substantial default of a material provision of the Franchise, declare the Franchise Agreement to be revoked; or

(4) Seek specific performance of any provision, which reasonably lends itself to such remedy, as an alternative to damages.

The Grantee shall not be relieved of any of its obligations to comply promptly with any provision of the Franchise by reason of any failure of the Franchising Authority to enforce prompt compliance.

18.29 ACTS OF GOD. The Grantee shall not be held in default or noncompliance with the provisions of the Franchise, nor suffer any enforcement or penalty relating thereto, where such noncompliance or alleged defaults are caused by strikes, acts of God, power outages or other events reasonably beyond its ability to control.

18.30 PREEMPTION. If the FCC, or any other federal or state body or agency, shall now or hereafter exercise any paramount jurisdiction over the subject matter of the Franchise, then to the extent such jurisdiction shall preempt and supersede or preclude the exercise of the like jurisdiction by the Franchising Authority, the jurisdiction of the Franchising Authority shall not control.

18.31 ACTIONS OF FRANCHISING AUTHORITY AND GRANTEE. In any action by the Grantee or Franchising Authority or representative thereof mandated or permitted under the terms hereof, such party shall act in a reasonable, expeditious and timely manner.

Furthermore, in any instance where approval or consent is required under the terms hereof, such approval or consent shall not be unreasonably withheld.

18.32 NOTICE. Unless expressly otherwise agreed between parties, every notice or response to be served upon the Franchising Authority or Grantee shall be in writing, and shall be deemed to have been duly served when received. The notices or responses to the Franchising Authority shall be addressed as follows:

Village of DeForest
306 DeForest Street
P.O. Box 510
DeForest, Wisconsin 53532-0510

The notices and responses to the Grantee shall be addressed as follows:

TCI Cablevision of Wisconsin, Inc.
5723 Tokay Boulevard
Madison, Wisconsin 53719-1284

With a copy to:

TCI Cablevision of Wisconsin, Inc.
Attn: Operations/Legal Department
P.O. Box 5630
Denver, Colorado 80217

Or:

5619 DTC Parkway
Englewood, Colorado 80111

Franchising Authority and Grantee may designate such other address or addresses from time to time by giving notice to each other.

CHAPTER 20 GENERAL PROVISIONS

20.01	Rules of Construction.....	20-1
20.02	Conflict and Separability	20-1
20.03	Village Administrator to File Documents Incorporated by Reference	20-2
20.04	Penalty Provisions	20-2
20.05	Repeal of General Ordinances.....	20-3
20.06	Effect of Repeals	20-4
20.07	Exemptions for Special Events.....	20-4
20.08	Schedule of Deposits [Cr. 15-12, Eff. 03-13-15].....	20-5
20.09	Aiding and Abetting Prohibited	20-6

20.01 RULES OF CONSTRUCTION. In the construction of this Code of general ordinances, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the ordinances:

(1) **WISCONSIN STATUTES.** The term "Wisconsin Statutes" or "*Wis. Stats.*" whichever used in this Code, shall mean the Wisconsin Statutes for the year 1999-2000; the term shall include session laws of the 2001-02.

(2) **GENDER: SINGULAR AND PLURAL.** Every word in this Code and in any ordinance importing the masculine gender may extend and be applied to females as well as males, and every word importing the singular number only may extend and be applied to several persons or things as well as to one person or thing; provided that these rules of construction shall not be applied to any provisions which shall contain any express language excluding such construction or when the subject matter or context of such provisions may be repugnant thereto.

(3) **PERSON.** The word "person" extends and applies to natural persons, firms, corporations, associations, partnerships or other bodies politic and all entities of any kind capable of being sued unless plainly inapplicable.

(4) **ACTS BY AGENTS.** When a provision requires an act to be done which may by law as well be done by an agent as by the principal, such requirement shall be construed to include all such acts when done by an authorized agent.

20.02 CONFLICT AND SEPARABILITY.

(1) **CONFLICT OF CODE PROVISIONS.** If the provisions of the different chapters of this Code conflict with or contravene each other, the provisions of each chapter shall prevail as to all matters and questions arising out of the subject matter of such chapter.

(2) **SEPARABILITY OF CODE PROVISIONS.** If any section, subsection, sentence, clause or phrase of this Code 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. The Village President and the Village Board of the Village of DeForest hereby declare that they would have passed this Code and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases or portions thereof may be declared invalid or unconstitutional.

20.03 VILLAGE ADMINISTRATOR TO FILE DOCUMENTS INCORPORATED BY REFERENCE. Whenever in this Code any standard, code, rule, regulation or other written or printed matter, other than the Wisconsin Statutes or other sections of this Code, are adopted by reference, they shall be deemed incorporated in this Code as if fully set forth herein and the Village Administrator is hereby directed and required to file, deposit and keep in his office a copy of the code, standard, rule, regulation or other written or printed matter as adopted. Materials so filed, deposited and kept shall be public records open for examination with proper care by any person during the Village Administrator's office hours, subject to such orders or regulations which the Village Administrator may prescribe for their preservation.

20.04 PENALTY PROVISIONS.

(1) **GENERAL PENALTY.** Except as provided in sub. (2), any person who shall violate any of the provisions of this Code for which a specific forfeiture is not otherwise provided shall, upon conviction of such violation, be subject to a penalty as follows:

(a) **First Offense, Penalty.** Any person who shall violate any provision of this Code subject to a forfeiture shall, upon conviction thereof, forfeit not more than \$500.00, together with court costs and all applicable fees, surcharges and assessments as provided by law and, in default of payment thereof, shall be subject to imprisonment in the County Jail until the entire judgment is paid, but not exceeding 90 days.

(b) **Second Offense, Penalty.** Any person found guilty of violating any provision of this Code who shall previously have been convicted of a violation of the same ordinance shall, upon conviction thereof, forfeit not more than \$1000.00 for each such offense, together with court costs and all applicable fees, surcharges and assessments as provided by law and, in default of payment thereof, shall be subject to imprisonment in the County Jail until the entire judgment is paid, but not to exceed 6 months.

(2) **PENALTIES FOR MINORS.** Any minor who is 12 years of age or older who shall violate any provision of this Code for which a different penalty is not expressed shall be subject to the penalties provided in sub. (1), subject to the following:

[Am. 94-5, Eff. 2-7-94; Am. 06-20, Eff. 6-8-06]

(a) Any minor against whom a forfeiture is imposed shall be allowed up to 12 months for payment;

(b) Any order imposing a forfeiture upon a minor shall include a finding that the minor alone is financially able to pay;

(c) No minor may be imprisoned for failure to pay a forfeiture imposed under this Code. Upon failure by any minor to pay any such forfeiture, the court may suspend, for a period of not less than 30 nor more than 90 days, or until the forfeiture is paid, whichever occurs first:

1. any hunting, fishing or other license issued under Chapter 29 of the Wisconsin Statutes, or
2. the minor's operating privileges as defined in §340.01(40), *Wis. Stats.*

(d) The court may impose any penalty or enter any other dispositional order authorized by §§938.343 or 938.344, *Wis. Stats.*

(e) This subsection shall not apply to violations of Chapter 26 of this Code.

(3) SUBSEQUENT OFFENSES. For purposes of determining whether an offense is a first or subsequent offense under sub. (1), all violations of any section or sections of this Code prohibiting the same or substantially similar conduct shall be deemed a violation of the same provision of this Code.

(4) CONTINUED VIOLATIONS. Each violation and each day a violation continues or occurs shall constitute a separate offense. Nothing in this Code shall preclude the Village from maintaining any appropriate action to prevent or remove a violation of any provision of this Code.

(5) EXECUTION AGAINST DEFENDANT'S PROPERTY. Whenever any person fails to pay any forfeiture, court costs and all applicable fees, surcharges and assessments as provided by law, upon the order of the court for violation of any ordinance of the Village, the court may, in lieu of ordering imprisonment of the defendant, or after the defendant has been released from custody, issue an execution against the property of the defendant for the unpaid balance of the judgment.

(6) COURT COSTS. Court costs shall be assessed in the amount established by state statute. If the applicable statute establishes a range of court costs, the costs shall be the maximum amount allowed by such statute.

[Subsection Am. 06-20, Eff. 6-8-06]

(7) COLLECTION FEES. If the court elects to use a collection agency to collect unpaid sums as permitted by §755.21, *Wis. Stats.*, the procedure in that section shall apply. Any fees assessed by the collection agency shall be paid only from the proceeds of each judgment collected. The court shall keep records of any such amounts and report them to the Finance Director at least quarterly, and the Finance Director shall write off said amounts from the receivable due.

[Cr. 11-20, Eff. 6-17-11]

(8) OTHER DISPOSITIONS AND REMEDIES. Notwithstanding any other provision of this Code, the court may impose any other appropriate penalty or disposition or may exercise any other appropriate enforcement remedy authorized to a municipal court by the Wisconsin Statutes.

[Cr. 11-20, Eff. 6-17-11]

20.05 REPEAL OF GENERAL ORDINANCES. All ordinances heretofore adopted by the Village Board of the Village of DeForest are hereby repealed, except all ordinances or parts of ordinances relating to the following subjects and not conflicting with any of the provisions of this Code:

The issuance of corporate bonds and notes of the Village of DeForest of whatever name or description.

The establishment of grades, curb lines and widths of sidewalks in the public streets and alleys.

The fixing of salaries of public officials and employees.

Rights, licenses or franchises or the creation of any contract with the Village of DeForest.

The lighting of streets and alleys.

The annexation of territory to the Village of DeForest.

The naming and changing of names of streets, alleys, public grounds and parks.

The letting of contracts without bids.

Tax and special assessment levies.

Release of persons, firms or corporations from liability.

Construction of any public works.

Water, sewer and electric rates, rules and regulations and sewer and water main construction.

Budget ordinances, resolutions and actions.

[Revisor's note: The repealer was effective as to ordinances enacted prior to April 18, 1983, the effective date of Ordinance 83-7 originally codifying this code.]

20.06 EFFECT OF REPEALS. The repeal or amendment of any section or provision of this Code or of any other ordinance or resolution of the Village Board shall not:

(1) By implication be deemed to revive any ordinance not in force or existing at the time at which such repeal or amendment takes effect.

(2) Affect any vested right, privilege, obligation or liability acquired, accrued or incurred under any enactment so repealed or amended, unless the privilege of repealing such obligation or privilege has been reserved by the Village.

20.07 EXEMPTIONS FOR SPECIAL EVENTS.

(1) The Village Board may, by resolution, grant to any *bona fide* cultural, patriotic or civic organization, a temporary exemption, in whole or in part, from the provisions of §§5.23, 5.28, 9.07(5)(a), 9.07(7), 10.02(1), 10.03(8), 10.03(10)(a), 16.01(3)(g) and (m) of this Code in order to allow a specific event which the Board determines to be in the public interest.
[Cr. 94-18, Eff. 5-2-94; Am. 95-15, Eff. 4-3-95; Am. 07-06, Eff. 02-23-07; Am. 17-06, Eff. 03-17-17]

(2) Prior to adopting any resolution authorized by sub. (1), the Board shall find:
[Am. 17-06, Eff. 03-17-17]

(a) The event authorized is designed to promote a cultural, patriotic or civic interest of the general public;

(b) That the exception or limitation being authorized is reasonably necessary for the event to be historically accurate or to otherwise fulfill its cultural, patriotic or civic purpose;

(c) That adequate provisions have been made and necessary assurances given by the sponsor of the event that the exception or limitation will not create any significant risk of harm to the health, safety or welfare of the participants or the public; and

(d) That activities undertaken pursuant to any exception or limitation granted will not cause any significant damage to public or private property and that any damage so caused will be promptly repaired.

(3) The Village Board may condition the exception or limitation granted by such resolution upon any terms or conditions it deems necessary to protect the public health, safety and welfare including, but not limited to:

(a) Approvals by the Police Chief and/or Fire Chief of any specific activity which the Board finds appropriately left to their respective expertise;

(b) Appropriate access to and supervision by the Police and Fire Department of any or all areas where the event or any portion thereof will be held;

(c) Adequate provision for special fire, medical ambulance or other professional services and the payment for such services;

(d) Adequate provisions for liability or other insurance deemed necessary by the Board;

(e) The issuance of any permits or approvals required by any other provisions of this Code;

(f) Any other condition deemed reasonably necessary by the Village Board.

(4) Any resolution adopted pursuant to this section shall describe the event, identify the sponsor and specify the time period during which the exemption or limitation shall apply. No such resolution shall be deemed to authorize the violation of state or federal law, nor to authorize any activity in violation of any Village Ordinance except as provided therein.
[Cr. 94-18, Eff. 5-2-94]

20.08 SCHEDULE OF DEPOSITS.

[Cr. 15-12; Eff. 03-13-15; Am. 16-46, Eff. 11-24-16]

(1) Uniform Deposit Schedule Adopted. Bond and deposit schedules for all traffic code, conservation, environmental protection, boating, snowmobile, or ATV violations shall be as adopted by the Wisconsin Judicial Conference from time to time as set forth in the Wisconsin Revised Uniform Deposit Schedules.

(2) Except as provided in sub. (1), the following deposit schedule, before application of court costs, fees, surcharges, and assessments, shall apply to all alleged violations of Village ordinances punishable by a monetary forfeiture:

<u>Municipal Code</u>	<u>Description of Violation</u>	<u>Penalty Range</u>	<u>Deposit</u>
§3.01, adopting §346.51(1), Stats.	Improper Parking On/Off Roadway	\$20-\$200 (per §3.12(4)(a))	\$20
§3.01, adopting §346.52(1), Stats.	Stopping/Standing in Prohibited Areas 2 nd conv. w/in 1 year	\$10-40 (per §3.12(4)(a)) \$20-100 (per §3.12(4)(a))	\$10 \$20
§3.01, adopting §346.52(2), Stats.	Stopping/Standing on Highway by Grade School 2 nd conv. w/in 1 year	\$5-40 (per §3.12(4)(a)) \$10-100 (per §3.12(4)(a))	\$5 \$10
§3.01, adopting §346.53, Stats.	Parking/Standing Where Prohibited 2 nd conv. w/in 1 year	\$5-40 (per §3.12(4)(a)) \$10-100 (per §3.12(4)(a))	\$5 \$10
§3.01, adopting §346.54, Stats.	Improper Parking/Standing Of Vehicle 2 nd conv. w/in 1 year	\$10-40 (per §3.12(4)(a)) \$20-100 (per §3.12(4)(a))	\$10 \$20
§3.01, adopting §346.55(1), Stats.	Parking on Left Side of Highway	\$10-100 (per §3.12(4)(a))	\$10
§3.01, adopting §346.55(3), Stats.	Parking on Posted Private Property	\$10-100 (per §3.12(4)(a))	\$10
§3.01	All Other Parking Violations	\$5-20 (per §3.12(4))	\$10
§3.021	Heavy Traffic Route Violations First Offense Second Offense w/in 1 year Third Offense w/in 1 year Fourth and subsequent Offense	\$0-500 (per §3.021(7)) \$0-1000 (per §3.021(7)) \$0-1000 (per §3.021(7)) \$0-1000 (per §3.021(7))	\$100 \$250 \$500 \$1,000
[Am. 16-28, Eff. 8-26-16]			
§3.02(3)	Prohibited Signs	\$10-20 (per §3.12(5))	\$10
§3.06(8)	Winter Parking Restrictions	\$10-50 (per §3.12(4))	\$20
Ch. 3	All Other Violations Of Chapter 3		\$50
§8.04	Well Abandonment	\$25-200 (per §8.04(7))	\$200

§8.70	Sewer Violations	\$100-500 (per §8.70(6))	\$200
§9.01	Alcohol License and Permit Violations 2 nd Offense	\$0-500 (per §20.04) \$0-1,000 (per §20.04)	\$500 \$1,000
§9.015	Adult Business Violations	\$250-2,000 (per §9.015(11))	\$1,000
§9.02	Cigarette Sales w/o a License 2 nd Offense	\$0-500 (per §20.04) \$0-1,000 (per §20.04)	\$500 \$1,000
§9.05	Direct Sales and Solicitation Violations	\$25-200 (per §9.05(10)(a))	\$200
§9.055	Special Event Vendor Violations	\$10-200 (per §9.055(4)(a))	\$100
§9.07	Animal Violations 2 nd Offense	\$25-100 (per §9.07(12)(a)) \$75-250 (per §9.07(12)(a))	\$50 \$200
§9.08	Bicycle Violations	\$0-10 (per §9.08(12))	\$10
§9.08(10)	Bicycle Violations Parental Liability	\$10-200 (per §9.08(12))	\$30
§10.01, adopting §940.19, Stats.	Battery Under Age 17	\$0-500 (per §20.04) \$0-500 (per §20.04)	\$500 \$250
§10.01, adopting §941.20, Stats.	Endangering Safety By Use of a Weapon	\$0-500 (per §20.04)	\$500
§10.01, adopting §941.23, Stats.	Carrying a Concealed Weapon	\$0-500 (per §20.04)	\$500
§10.01, adopting §941.237, Stats.	Carrying a Handgun On Licensed Premises	\$0-500 (per §20.04)	\$500
§10.01, adopting §946.41, Stats.	Resisting or Obstructing 2 nd Offense Under Age 17	\$0-500 (per §20.04) \$0-1,000 (per §20.04) \$0-500 (per §20.04)	\$300 \$500 \$100
§10.03(1)(c)	Defecation and Urination in Public Prohibited	\$0-500 (per §20.04)	\$50

§10.03(6)(a)1.	§125.07(1)(a), Wis. Stats. Dispensing Alcohol Beverages to Underage Persons	\$0-500 \$0-1,000 per 10.03(6)(b)1 for 3 rd offense in 30 months.	\$250 \$500
§10.03(6)(a)2.	§125.07(3)(a), Wis. Stats. Underage Person Presence at Place of Sale	\$0-500	\$250
§10.03(6)(a)3.	§125.07(4)(a), Wis. Stats. Underage Person Violations	\$250-500, but greater if 2 nd or more offense per §125.07(4)(bs), Wis. Stats.	\$300
§10.03(6)(a)3.	§125.07(4)(b), Wis. Stats. Underage Possession or Consumption of Alcohol Beverages	\$100-200, but greater if 2 nd or more offense per §125.07(4)(c), Wis. Stats.	\$200
§10.03(6)(a)4.	§125.085 (3)(b), Wis. Stats. Proof of Age	\$300-1,250	\$300
§10.03(6)(a)5.	§125.09(2), Wis. Stats. Alcohol on School Grounds	\$0-200, but greater if underage, per §125.09(2)(d), Wis. Stats.	\$200
§10.03(7)	Possession of Marijuana 2 nd Offense or more	\$50-500 (per §10.03(7)(c)) \$50-500 (per §10.03(7)(c))	\$300 \$500
	Under Age 17 2 nd Offense w/in 1 year 3 rd Offense w/in 1 year	\$0-500 (per §10.25(2)) \$0-500 (per §10.25(2)) \$0-500 (per §10.25(2))	\$100 \$200 \$300
	Possession of Drug Paraphernalia 2 nd Offense or more	\$50-500 (per §10.03(7)(c)) \$50-500 (per §10.03(7)(c))	\$300 \$500
§10.03(7)(b)(2)	Under Age 17 2 nd Offense w/in 1 year 3 rd Offense w/in 1 year	\$0-50 (per §10.24(1)(a)) \$0-100 (per §10.24(1)(b)) \$0-500 (per §10.24(1)(c))	\$50 \$100 \$200
	Possession of Synthetic Marijuana 2 nd Offense or more	\$50-500 (per §10.03(7)(c)) \$50-500 (per §10.03(7)(c))	\$300 \$500
	Under Age 17 2 nd Offense w/in 1 year 3 rd Offense w/in 1 year	\$0-500 (per §10.25(2)) \$0-500 (per §10.25(2)) \$0-500 (per §10.25(2))	\$100 \$200 \$300
§10.03(7)(b)(3)	Possession of Cigarette, Tobacco Product or Nicotine Product Under Age 18	\$0-25 (per §10.03(7m)(e))	\$25

	2 nd Offense w/in 1 year 3 rd Offense w/in 1 year	\$0-40 (per §10.03(7m)(e)) \$0-50 (per §10.03(7m)(e))	\$40 \$50
§10.03(7n)(b)3	Failure to Post Cigarette, Tobacco Product or Nicotine Product Notice on Premises	\$0-25 (per §10.03(7n)(c))	\$25
§10.03(7n)(c)1	Failure to Post Cigarette, Tobacco Product or Nicotine Product Notice on Machine	\$0-25 (per §10.03(7n)(c))	\$25
§10.03(7n)	Cigarette, Tobacco Product or Nicotine Product Sales to Minors 2 nd Offense w/in 1 year	\$0-500 (per §10.03(7)(e)) \$200-500 (per §10.03(7)(e))	\$100 \$150
§10.03(7p)	Possession of E-Cigarettes by Minor 2 nd Offense w/in 1 year 3 rd Offense w/in 1 year	\$0-25 (per §10.03(7p)(e)1) \$0-40 (per §10.03(7p)(e)1) \$0-50 (per §10.03(7p)(e)1)	\$25 \$40 \$50
Sale or Transfer of E-Cigarette to Minor 2 nd Offense w/1 year			
[Cr. 2019-10, Eff. 6-28-19]			
§11.10	Junked Automobiles 2 nd Offense	\$50-500 (per §11.11(1)) \$100-500 (per §11.11(1))	\$100 \$200
§11.11(2)(b)	Environmental Pollution Nuisances 1 st Offense 2 nd Offense 3 rd Offense 4 th Offense 5 th and Subsequent Offenses	\$1,000-5,000 (per §11.11(2)(b)) \$1,000-25,000 (per §11.11(2)(b)) \$1,000-25,000 (per §11.11(2)(b)) \$1,000-25,000 (per §11.11(2)(b)) \$1,000-25,000 (per §11.11(2)(b))	\$2,500 \$10,000 \$15,000 \$20,000 \$25,000
Ch. 11	All Other Violations Of Chapter 11 2 nd Offense	\$50-500 (per §11.11(1)) \$100-500 (per §11.11(1))	\$300 \$500
Ch. 13	Subdivision and Development Violations 2 nd Offense	\$100-1,000 (per §13.11(1)) \$100-1,000 (per §13.11(1))	\$500 \$1,000
§14.125	Outdoor Furnace Violations 2 nd Offense	\$50-200 (per §14.125(5)) \$200-500 (per §14.125(5))	\$100 \$300
Ch. 14	All Other Violations Of Chapter 14 2 nd Offense	\$0-500 (per §20.04) \$0-1,000 (per §20.04)	\$500 \$1,000
Ch. 15	Zoning Code Violations	\$5-500 (per §15.03(8)(b))	\$500

§§16.20 to 16.28	Urban Forestry Violations 2 nd Offense	\$50-500 (per §16.29(1)(a)) \$100-500 (per §16.29(1)(b))	\$200 \$300
Ch. 21	Floodplain Violations	\$200-500 (per §21.09)	\$500
§22.04	Recycling Violations 2 nd Offense	\$0-50 (per §22.24(3)(a)) \$50-200 (per §22.24(3)(a))	\$50 \$200
Ch. 22	All Other Violations Of Chapter 22 2 nd Offense	\$10-1,000 (per §22.24(3)(b)) \$10-1,000 (per §22.24(3)(b))	\$500 \$1,000
Ch. 24	Simplified Erosion Control Violations 2 nd Offense 3 rd Offense	\$150 (per §24.18(1)) \$400 (per §24.18(1)) \$800 (per §24.18(1))	\$150 \$400 \$800
	Other Erosion Control Or Storm Water Violations 2 nd Offense 3 rd Offense	\$500 (per §24.18(1)) \$1,000 (per §24.18(1)) \$2,000 (per §24.18(1))	\$500 \$1,000 \$2,000
Ch. 25	Shoreland Zoning Violations [Am. 21-09, Eff. 5-14-21]	\$500-2,000 (per §25.21(3))	\$1,000
§26.03(1)	Habitual Truancy	\$0-500 (per §26.04(1)(h)) MANDATORY APPEARANCE PER 26.03(3)	
§26.031	Truancy 2 nd Offense	\$0-50(per §26.04(2)(b)) \$0-100(per §26.04(2)(b)) MANDATORY APPEARANCE PER 26.031	
§26.05(1)	Contributing to Truancy	\$0-500 (per §26.05(1))	\$300
§26.06(1)	Truancy Parental Liability	\$0-500 (per §26.06(2))	\$300
§26.07	Failure to Control Truant	\$0-500 (per §26.07)	\$300
Ch. 27 \$300 [Am. 22-20, Eff. 8-17-22]	Housing and Property Maintenance Violations	\$50-500 (per §27.08(4)(a))	
All Other Ordinances - Adults 2 nd Offense		\$0-500 (per §20.04) \$0-1,000 (per §20.04)	\$200 \$300
All Other Ordinances – Under 17		\$0-500 (per §20.04)	\$100

If Violation <u>Only</u> Applicable To Persons Under 18 [Cr. 15-12, Eff. 03-13-15; Am. 16-46, Eff. 11-24-16]	\$0-50 (per §10.25(2))	\$50
--	------------------------	------

20.09 AIDING AND ABETTING PROHIBITED.

[Cr. 23-15; Eff.]

(1) Whoever is concerned in the commission of any ordinance violation is a principal and may be charged with and convicted of the ordinance violation although the person did not directly commit it and although the person who directly committed it has not been convicted or has been convicted of some other violation based on the same act.

(2) A person is concerned in the commission of an ordinance violation if the person:

(a) Directly commits the ordinance violation; or

(b) Intentionally aids and abets the commission of the ordinance violation; or

(c) Is a party to a conspiracy with another to commit the ordinance violation or advises, hires, counsels, or otherwise procures another to commit it. Such a party is also concerned in the commission of any other ordinance violation which is committed in pursuance of the intended violation and which under the circumstances is a natural and probable consequence of the intended violation. This paragraph (c) does not apply to a person who voluntarily changes his or her mind and no longer desires that the ordinance violation be committed and notifies the other parties concerned of his or her withdrawal within a reasonable time before the commission of the violation so as to allow the others also to withdraw.

CHAPTER 21
FLOODPLAIN ZONING REGULATIONS

[Repealed & Recreated 14-27, Eff. 09-12-14]

TABLE OF CONTENTS

21.01 STATUTORY AUTHORIZATION AND PURPOSE.....	21-1
21.02 DEFINITIONS.....	21-2
21.03 GENERAL PROVISIONS.....	21-10
21.04 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS..	21-12
21.05 HYDRAULIC AND HYDROLOGIC ANALYSES.....	21-12
21.06 WATERCOURSE ALTERATIONS.....	21-13
21.07 CHAPTER 30, 31, WIS. STATS. DEVELOPMENT.....	21-13
21.08 PUBLIC OR PRIVATE CAMPGROUNDS.....	21-13
21.20 FLOODWAY DISTRICT (FW).....	21-14
21.30 FLOODFRINGE DISTRICT (FF).....	21-16
21.40 GENERAL FLOODPLAIN DISTRICT (GFP).....	21-19
21.50 NONCONFORMING USES.....	21-20
21.51 ADMINISTRATION.....	21-24
21.52 FLOODPROOFING STANDARDS FOR NONCONFORMING STRUCTURES OR USES	21-31
21.53 PUBLIC INFORMATION.....	21-31
21.60 AMENDMENTS.....	21-31
21.61 ENFORCEMENT AND PENALTIES.....	21-33

21.01 STATUTORY AUTHORIZATION AND PURPOSE.

(1) STATUTORY AUTHORIZATION. This ordinance is adopted pursuant to the authorization in ss. 61.35 and 62.23, for villages and cities; and the requirements in s. 87.30, Stats.

(2) PURPOSE. This chapter is intended to regulate floodplain development in order 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.

21.02 DEFINITIONS.

(1) GENERAL. Words and phrases not defined in this section shall be given their ordinary 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.

(2) DEFINED TERMS. As used in this chapter, the following terms shall be interpreted according to the following definitions:

(a) A ZONES shall mean 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.

(b) AH ZONE – See “AREA OF SHALLOW FLOODING”.

(c) AO ZONE – See “AREA OF SHALLOW FLOODING”.

(d) ACCESSORY STRUCTURE OR USE shall mean a facility, structure, building or use which is accessory or incidental to the principal use of a property, structure or building.

(e) ALTERATION shall mean an enhancement, upgrading or substantial change or modification other than an addition or repair to a dwelling or to electrical, plumbing, heating, ventilating, air conditioning and other systems within a structure.

(f) AREA OF SHALLOW FLOODING – A designated AO, AH, AR/AO, AR/AH, or VO zone on a community's Flood Insurance Rate Map (FIRM) with a 1 percent or greater annual chance of flooding to an average depth of 1 to 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.

(g) BASE FLOOD shall mean the flood having a one 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.

(h) BASEMENT shall mean any enclosed area of a building having its floor sub-grade, i.e., below ground level, on all sides.

(i) BUILDING shall mean a structure consisting wholly or partially of walls and a roof intended for the enclosure of persons or property.

(j) CAMPGROUND shall mean any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by 4 or more camping units, or which is advertised or represented as a camping area.

(k) CAMPING UNIT shall mean any portable device, no more than 400 square feet in area, used as a temporary shelter, including but not limited to a camping trailer, motor home, bus, van, pick-up truck, or tent that is fully licensed, if required, and ready for highway use.

(l) CERTIFICATE OF COMPLIANCE shall mean 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 chapter.

(m) CHANNEL shall mean a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

(n) CRAWLWAY OR "CRAWL SPACE" shall mean an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

(o) DECK shall mean an unenclosed exterior structure that has no roof or sides, but has a permeable floor which allows the infiltration of precipitation.

(p) DNR shall mean the Wisconsin Department of Natural Resources.

(q) DEVELOPMENT shall mean 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.

(r) DRYLAND ACCESS shall mean 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.

(s) ENCROACHMENT shall mean any fill, structure, equipment, use or development in the floodway.

(t) FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) shall mean the federal agency that administers the National Flood Insurance Program.

(u) FLOOD INSURANCE RATE MAP (FIRM) shall mean 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.

(v) FLOOD or FLOODING shall mean a general and temporary condition of partial or complete inundation of normally dry land areas caused by one of the following conditions:

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

(w) 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.

(x) FLOODFRINGE shall mean 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.

(y) FLOOD HAZARD BOUNDARY MAP shall mean 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.

(z) FLOOD INSURANCE STUDY shall mean 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.

(aa) FLOODPLAIN shall mean 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.

(bb) FLOODPLAIN MANAGEMENT shall mean policy and procedures to insure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

(cc) FLOOD PROFILE shall mean 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.

(dd) FLOODPROOFING shall mean 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.

(ee) FLOOD PROTECTION ELEVATION shall mean an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (Also see: FREEBOARD.)

(ff) FLOOD STORAGE shall mean those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

(gg) FLOODWAY shall mean the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional flood discharge.

(hh) 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.

(ii) HABITABLE STRUCTURE shall mean any structure or portion thereof used or designed for human habitation.

(jj) HEARING NOTICE – Publication or posting meeting the requirements of Ch. 985, Stats. For appeals, a Class 1 notice, published once at least one week (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 (7 days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

(kk) HIGH FLOOD DAMAGE POTENTIAL shall mean 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.

(ll) HIGHEST ADJACENT GRADE shall mean the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

(mm) HISTORIC STRUCTURE shall mean any structure that is either:

1. Listed individually in the National Register of Historic Places or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
2. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
3. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or
4. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either by an approved

state program, as determined by the Secretary of the Interior; or by the Secretary of the Interior in states without approved programs.

(nn) INCREASE IN REGIONAL FLOOD HEIGHT shall mean 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.

(oo) LAND USE shall mean any nonstructural use made of unimproved or improved real estate. (Also see DEVELOPMENT.)

(pp) LOWEST ADJACENT GRADE – Elevation of the lowest ground surface that touches any of the exterior walls of a building.

(qq) LOWEST FLOOR shall mean 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.

(rr) MAINTENANCE shall mean 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.

(ss) MANUFACTURED HOME shall mean a structure transportable in one or more sections, which is built on a permanent chassis and is designed to be used with or without a permanent foundation when connected to required utilities. The term "manufactured home" includes a mobile home but does not include a "mobile recreational vehicle."

(tt) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION shall mean a parcel (or contiguous parcels) of land, divided into two or more manufactured home lots for rent or sale.

(uu) MOBILE/MANUFACTURED HOME PARK OR SUBDIVISION, EXISTING shall mean a parcel of land, divided into two or more manufactured home lots for rent or sale, on which the construction of facilities for servicing the lots is completed before the effective date of this chapter. At a minimum, this would include the installation of utilities, the construction of streets and either final site grading or the pouring of concrete pads.

(vv) MOBILE/MANUFACTURED HOME PARK, EXPANSION TO EXISTING shall mean 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.

(ww) MOBILE RECREATIONAL VEHICLE shall mean a vehicle which is built on a single chassis, measures 400 square feet or less 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."

(xx) MODEL, CORRECTED EFFECTIVE shall mean 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.

(yy) MODEL, DUPLICATE EFFECTIVE shall mean a copy of the hydraulic analysis used in the effective FIS and referred to as the effective model.

(zz) MODEL, EFFECTIVE shall mean the hydraulic engineering model that was used to produce the current effective Flood Insurance Study.

(aaa) MODEL, EXISTING (PRE-PROJECT) shall mean 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.

(bbb) MODEL, REVISED (POST-PROJECT) shall mean a modification of the Existing or Pre-Project Conditions Model, Duplicate Effective Model or Corrected Effective Model to reflect revised or post-project conditions.

(ccc) "NAVD" or "NORTH AMERICAN VERTICAL DATUM" shall mean elevations referenced to mean sea level datum, 1988 adjustment.

(ddd) "NGVD" or "NATIONAL GEODETIC VERTICAL DATUM" shall mean elevations referenced to mean sea level datum, 1929 adjustment.

(eee) NEW CONSTRUCTION shall mean 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.

(fff) NONCONFORMING STRUCTURE shall mean an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this chapter for the area of the floodplain which it occupies. (For example, an existing residential structure in the floodfringe district is a conforming use. However, if the lowest floor is lower than the flood protection elevation, the structure is nonconforming.)

(ggg) NONCONFORMING USE shall mean an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this chapter for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

(hhh) OBSTRUCTION TO FLOW shall mean 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.

(iii) OFFICIAL FLOODPLAIN ZONING MAP shall mean that map, adopted and made part of this chapter, as described in §21.03(2), which has been approved by the DNR and FEMA.

(jjj) OPEN SPACE USE shall mean those uses having a relatively low flood damage potential and not involving structures.

(kkk) ORDINARY HIGHWATER MARK shall mean 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.

(III) PERSON shall mean an individual, or group of individuals, corporation, partnership, association, municipality or state agency.

(mmm) PRIVATE SEWAGE SYSTEM shall mean a sewage treatment and disposal system serving one structure with a septic tank and soil absorption field located on the same parcel as the structure. It also means an alternative sewage system approved by the Department of Safety and Professional Services, including a substitute for the septic tank or soil absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

(nnn) PUBLIC UTILITIES shall mean 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.

(ooo) 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.

(ppp) REGIONAL FLOOD shall mean a flood determined to be representative of large floods known to have occurred in Wisconsin. A regional flood is a flood with a one percent chance of being equaled or exceeded in any given year, and if depicted on the FIRM, the RFE is equivalent to the BFE.

(qqq) START OF CONSTRUCTION shall mean the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond initial excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, nor does it include the installation of streets and/or walkways, nor does it include

excavation for a basement, footings, piers or foundations or the erection of temporary forms, nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For an alteration, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

(rrr) STRUCTURE shall mean 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.

(sss) SUBDIVISION has the meaning given in §236.02(12), Wis. Stats.

(ttt) SUBSTANTIAL DAMAGE shall mean damage of any origin sustained by a structure, whereby the cost of restoring the structure to its pre-damaged condition would equal or exceed 50 percent of the equalized assessed value of the structure before the damage occurred.

(uuu) SUBSTANTIAL IMPROVEMENT shall mean any repair, reconstruction, rehabilitation, addition or improvement of a building or structure, the cost of which equals or exceeds 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 or fire inspectors 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.

(vvv) UNNECESSARY HARDSHIP shall mean circumstances 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.

(www) VARIANCE shall mean 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.

(xxx) 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 floodplain permits, lowest floor elevation documentation, floodproofing certificates or required floodway encroachment calculations shall be deemed in violation until such time as that documentation is provided.

(yyy) WATERSHED – The entire region contributing runoff or surface water to a watercourse or body of water.

(zzz) WATER SURFACE PROFILE shall mean 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.

(aaaa) WELL shall mean an excavation opening in the ground made by digging, boring, drilling, driving or other methods, to obtain groundwater regardless of its intended use.

21.03 GENERAL PROVISIONS.

(2) AREAS REGULATED. This chapter 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, A1-30, and AH Zones on the FIRM. Other regulatory zones are displayed as A and AO zones. Regional Flood Elevations (RFE) may be derived from other studies. If more than one map or revision is referenced, the most restrictive information shall apply.

(3) OFFICIAL MAPS & REVISIONS. The boundaries of all floodplain districts are designated as A, AE, AH, AO or A1-30 on the maps based on the Flood Insurance Study (FIS) listed below. 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 (see §21.60 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. If more than one map or revision is referenced, the most restrictive information shall apply.

(a) Maps Based on the FIS: Flood Insurance Rate Map (FIRM), panel numbers 55025C0088H, 55025C0089H, 55025C0235H, 55025C0251H, 55025C0252H, 55025C0253H, 55025C0254H, 55025C0258H, 55025C0261H, 55025C0262H, dated September 17, 2014; with corresponding profiles that are based on the Flood Insurance Study (FIS) Volumes 55025CV001D, 55025CV002D, 55025CV003D, 55025CV004D, dated June 16, 2016.

(b) Map Revisions Based on Other Studies: Letter of Map Revision No. 21-05-1325P issued by FEMA on September 3, 2021 bearing an effective date of January 14, 2022, and revising Panel Nos. 55025C0251H and 55025C0252H.
[Am. 16-13, Eff. 5-27-16; Am. 20-01, Eff. 1-31-20; Am. 21-35, Eff. 1-1-22]

(3) ESTABLISHMENT OF FLOODPLAIN ZONING DISTRICTS. The regional floodplain areas are divided into three districts as follows:

(a) The Floodway District (FW), is the channel of a river or stream and those portions of the floodplain adjoining the channel required to carry the regional floodwaters and are contained within AE Zones as shown on the FIRM.

(b) The Floodfringe District (FF) is that area between the regional flood limits and the floodway and displayed as AE Zones on the FIRM.

(c) The General Floodplain District (GFP) is those areas that may be covered by floodwater during the regional flood and which does not have a BFE or floodway boundary determined, including A, AH and AO zones on the FIRM.

(4) DETERMINING FLOODPLAIN BOUNDARIES. Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved by the Zoning Administrator using the criteria in pars. (a) or (b) below. If a significant difference exists, the map shall be amended according to §21.60 *Amendments*. The Zoning Administrator may 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 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 §21.51(5) and the criteria in (a) and (b) 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 §21.60.

(a) 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.

(b) Where flood profiles do not exist for projects, the location of the boundary shall be determined by the map scale.

(5) REMOVAL OF LANDS FROM FLOODPLAIN DESIGNATION. Compliance with the provisions of this chapter shall not be grounds for removing land from the floodplain unless it is filled at least two feet above the regional or base flood elevation, the fill is contiguous to land outside the floodplain, and the map is amended pursuant to §21.60.

(6) COMPLIANCE. Any development or use within the areas regulated by this chapter shall be in compliance with the terms of this chapter, and other applicable local, state, and federal regulations.

(7) MUNICIPALITIES AND STATE AGENCIES REGULATED. Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this chapter and obtain all necessary permits. State agencies shall comply if s. 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 to the extent provided in s. 30.2022, Wis. Stats.

(8) ABROGATION AND GREATER RESTRICTIONS. (a) This chapter supersedes any conflicting provisions of the Village Zoning Code enacted under §61.35 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.

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

(9) INTERPRETATION. In their interpretation and application, the provisions of this chapter are the minimum requirements and shall be liberally construed in favor of the

Village and are not a limitation on or repeal of any other powers granted by the Wisconsin Statutes. In the case of ambiguity, the provisions hereof shall be interpreted in a manner consistent with the intent and requirements of Ch. NR 116, Wis. Adm. Code

(10) **WARNING AND DISCLAIMER OF LIABILITY.** The flood protection standards in this chapter 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 chapter does not imply or guarantee that non-floodplain areas or permitted floodplain uses will be free from flooding and flood damages. This chapter does not create liability on the part of, or a cause of action against, the Village or any officer or employee thereof for any flood damage that may result from reliance on this chapter.

(11) **SEVERABILITY.** Should any provision of this chapter be declared unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby and shall remain in full force and effect.

(12) **APPLICABILITY TO ANNEXED AREAS.** The Dane County floodplain zoning provisions in effect on the date of annexation shall remain in effect and shall be enforced by the Village for all annexed areas until the lands are mapped in an appropriate district under this Chapter. In any case where annexed land lies within a FIRM incorporated into this chapter, it shall be subject to this chapter immediately upon annexation.

21.04 GENERAL STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS.

(a) The Village Zoning Administrator 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.

(b) Subdivisions shall be reviewed for compliance with the above standards. All subdivision applications (including manufactured home parks) shall include regional flood elevation and floodway data and all other information required by §21.51(2). 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 shall be located and constructed to minimize or eliminate flood damages.

21.05 HYDRAULIC AND HYDROLOGIC ANALYSES.

(1) No floodplain development shall:

(a) Cause any obstruction to 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

(b) Cause any increase in the regional flood height due to the loss of floodplain storage area.

(2) The Zoning Administrator shall deny all permit applications 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 such obstruction or increase is permitted under §21.60.

21.06 WATERCOURSE ALTERATIONS.

No zoning permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the Zoning Administrator has notified in writing all adjacent municipalities and the DNR and FEMA regional offices, and has required the applicant to secure all necessary state and federal permits. The standards of §21.05 must be met in all cases, 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 authorized under this section, the Zoning Administrator 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.

21.07 CHAPTER 30, 31, WIS. STATS. DEVELOPMENT.

Development which requires a permit from the DNR, under chs. 30 and 31, 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 §21.60.

21.08 PUBLIC OR PRIVATE CAMPGROUNDS.

(1) **QUALIFIED FLOODPLAIN PROPERTIES.** Public or private campgrounds located wholly or partially within a floodplain shall be permitted only by conditional use permit issued pursuant to §15.16. No such permit shall be issued unless the Planning & Zoning Commission finds that:

- (a) The proposed campground will have a low flood damage potential;
- (b) The campground is approved by the Department of Health Services;
- (c) The character of the river system and the campground elevation are such that a 72-hour warning of an impending flood can be given to all campground occupants.

(2) **REQUIRED CONDITIONS.** In addition to any other conditions imposed under §15.16, permits issued for campground use within a floodplain shall assure compliance with all of the following:

- (a) There shall be an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. Prior to issuance of the conditional use permit, the adequacy of the procedures shall be approved by the Village emergency government coordinator and the Chief of Police. The procedure shall be in writing and shall specify the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used, the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation. The procedures shall be updated and approved

at least annually as a condition of the permit, and shall comply with all current laws, administrative regulations and ordinances in effect at the time of each update.

(b) Only camping units that are fully licensed, if required, and ready for highway use shall be allowed;

(c) No camping unit shall occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours;

(d) Every camping unit that remains on site for more than 30 days shall be issued a limited permit or other authorization by the campground operator, a written copy of which is kept on file at the campground and made available for review by the Zoning Administrator upon request. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section and the conditional use permit. The Zoning Administrator shall periodically monitor the limited authorizations issued by the campground operator to assure compliance with the terms of this section;

(e) The campground shall have signs approved by the Planning & Zoning Administrator clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued; and

(f) All service facilities, including but not limited to refuse collection, electrical service, gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

21.20 FLOODWAY DISTRICT (FW).

(1) APPLICABILITY. This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to §21.40(4).

(2) PERMITTED USES. The following open space uses are allowed in the Floodway District and the floodway areas of the General Floodplain District provided they comply with all applicable ordinances, including but not limited to the standards contained in this section and the permitting requirements of §21.51.

(a) Agricultural uses, such as farming, outdoor plant nurseries, horticulture, viticulture and wild crop harvesting.

(b) Nonstructural industrial and commercial uses, such as loading areas, parking areas and airport landing strips.

(c) Nonstructural recreational uses, such as golf courses, tennis courts, archery ranges, picnic grounds, boat ramps, swimming areas, parks, wildlife and nature preserves, game farms, fish hatcheries, shooting, trap and skeet activities, hunting and fishing areas and hiking and horseback riding trails, subject to the fill limitations of §21.20(3).

(d) Uses or structures accessory to open space uses, or classified as historic structures that comply with sub. (3) and (4).

- (e) Extraction of sand, gravel or other materials that comply with sub. (3)(d).
 - (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, boardwalks and bridges that comply with sub. (3)(c).
- (3) STANDARDS FOR DEVELOPMENTS IN THE FLOODWAY.
- (a) General.
- 1. Any development in the floodway shall comply with §21.04 and have a low flood damage potential.
 - 2. Applicants shall provide the following data to determine compliance of the proposal with §21.05:
 - a. A cross-section elevation view of the proposal, perpendicular to the watercourse, showing whether the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of the 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 subd. (b) above.
- (b) Structures. Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if each such structure:
- 1. Is not designed for human habitation, does not have a high flood damage potential and is constructed to minimize flood damage;
 - 2. Has a minimum of two openings on different walls having a total net area not less than one square inch for every square foot of enclosed area, and the bottom of all such openings being no higher than one foot above grade. The openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
 - 3. Is anchored to resist flotation, collapse, and lateral movement;
 - 4. Has all mechanical and utility equipment elevated or flood proofed to or above the flood protection elevation; and
 - 5. Does not obstruct flow of flood waters or cause any increase in flood levels during the occurrence of the regional flood.
- (c) Public utilities, streets, boardwalks and bridges. Public utilities, streets, boardwalks 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 §21.05.

(d) Fills or Deposition of Materials. Fills or deposition of materials may be allowed by permit, if:

1. The requirements of §21.05 are met;
2. No material is deposited in navigable waters except pursuant to a permit issued by the DNR 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 applicable legal 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 waste or hazardous material.

(4) PROHIBITED USES. All uses not listed as permitted uses in §21.20(2) are prohibited, including the following uses:

- (a) Habitable structures, structures with high flood damage potential, or those not associated with permanent open-space uses;
- (b) Storage of materials that are buoyant, flammable, explosive or are injurious to property, water quality, or human, animal, plant, fish or other aquatic life;
- (c) Any private or public sewage systems, except portable latrines that are removed prior to flooding and systems associated with recreational areas and DNR-approved campgrounds that meet the applicable provisions of local ordinances and ch. SPS 383, Wis. Adm. Code;
- (d) Any public or private wells that are used to obtain potable water, except those for recreational areas that meet the requirements of all Village ordinances and chs. NR 811 and NR 812, Wis. Adm. Code;
- (e) Any solid or hazardous waste disposal sites;
- (f) Any wastewater treatment ponds or facilities, except those permitted under s. NR 110.15(3)(b), Wis. Adm. Code; and
- (g) Any sanitary sewer or water supply lines, except those to service existing or proposed development located outside the floodway and which comply with the regulations for the floodplain area occupied.

21.30 FLOODFRINGE DISTRICT (FF).

(1) **APPLICABILITY.** This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to §21.40(4).

(2) **PERMITTED USES.** Any structure, land use, or development permitted under Chapter 15 is allowed in the Floodfringe District if the standards in §21.40 are met, the use is not otherwise prohibited by applicable ordinances, and all permits or certificates specified in §21.51 have been issued.

(3) **STANDARDS FOR DEVELOPMENT IN THE FLOODFRINGE.** All developments in the floodfringe district shall comply with §21.05 and the following requirements. An existing nonconforming structure is permitted only in accordance with §21.50.

(a) **Residential Uses.** Any structure, including a manufactured home, constructed in, or moved into, the floodfringe district, shall meet or exceed the following standards.

1. The elevation of the lowest floor shall be at or above the flood protection elevation on fill unless the requirements of subd. 2 are met. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure in each direction.
2. The basement or crawlway floor may be placed at the regional flood elevation if it is dry floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation;
3. Contiguous dryland access shall be provided from every structure to land outside of the floodplain, except as provided in subd. 4.
4. In developments where existing street or sewer line elevations make compliance with subd. 3 impractical, the Village Board may permit new development and substantial improvements where roads are below the regional flood elevation, if:
 - a. The Village has received written assurance from police, fire and emergency services that rescue and relief will be provided to the structure(s) by wheeled vehicles during a regional flood event; or
 - b. The Village has a DNR-approved emergency evacuation plan.

(b) **Accessory Structures.** Accessory structures shall be constructed on fill with the lowest floor at or above the regional flood elevation.

(c) **Commercial Uses.** Any commercial structure which is erected, altered or moved into the floodfringe shall meet the requirements of sub. (1). Subject to the requirements of par. (e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(d) **Manufacturing and Industrial Uses.** Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe shall have the lowest floor elevated to

or above the flood protection elevation or shall meet the floodproofing standards in §21.52. Subject to the requirements of par. (e), storage yards, surface parking lots and other such uses may be placed at lower elevations if an adequate warning system exists to protect life and property.

(e) Storage of Materials. Materials that are buoyant, flammable, explosive, or injurious to property, water quality or to human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with §21.52. Adequate measures shall be taken to ensure that such materials will not enter any water body during flooding.

(f) Public Utilities, Streets, Boardwalks and Bridges. All utilities, streets, boardwalks and bridges shall be designed to be compatible with comprehensive floodplain development plans; and

1. In any case where public utilities, streets, boardwalks and bridges are deemed essential, or when the failure of such facilities would endanger the public health or safety, construction or repair of such facilities shall only be permitted if they are designed to comply with §21.52.
2. Minor roads or non-essential utilities may be constructed at lower elevations if they are designed to withstand flood forces to the regional flood elevation.

(g) Sewage Systems. All sewage disposal systems shall be designed to minimize or eliminate infiltration of flood water into the system to the flood protection elevation and meet the provisions of all other Village ordinances and ch. SPS 383, Wis. Adm. Code.

(h) Wells. All wells shall be designed to minimize or eliminate infiltration of flood waters into the system, pursuant to §21.52, to the flood protection elevation and shall meet the provisions of chs. NR 811 and NR 812, Wis. Adm. Code.

(i) Solid Waste Disposal Sites. Disposal of solid or hazardous waste is prohibited in floodfringe areas.

(j) Deposition Of Materials. Any deposited material must meet all the provisions of this ordinance.

(k) Manufactured Homes.

1. Owners or operators of all manufactured home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval of, and file an evacuation plan, indicating vehicular access and escape routes, with the Village's emergency management coordinator.
2. In existing manufactured home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - a. have the lowest floor elevated to the flood protection elevation; and
 - b. be anchored so they do not float, collapse or move laterally during a flood.

3. Outside of existing manufactured home parks, including new manufactured home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards in sub. (3)(a).

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

21.40 GENERAL FLOODPLAIN DISTRICT (GFP).

(1) APPLICABILITY. This section shall apply to all properties within floodplains mapped as A, AO or AH zones.

(2) PERMITTED USES. Pursuant to §21.40(4), it shall be determined whether the proposed use is located within the floodway or floodfringe.

Those uses permitted in the Floodway [§21.20(2)] and Floodfringe [§21.30(2)] Districts are allowed within the General Floodplain District, according to the standards of sub. (3), provided that all permits or certificates required under §21.51 have been issued.

(3) STANDARDS FOR DEVELOPMENT IN THE GENERAL FLOODPLAIN DISTRICT. The standards contained in §21.20 apply to developments in the Floodway District and §21.30 applies to developments within the Floodfringe District. This subsection applies to all floodplain districts.

(a) In AO/AH Zones the structure's lowest floor must meet one of the conditions listed below whichever is higher:

1. at or above the flood protection elevation; or
2. two (2) feet above the highest adjacent grade around the structure; or
3. the depth as shown on the FIRM

(b) In AO/AH zones, an applicant for a permit permitting development shall provide plans showing adequate drainage paths to guide floodwaters around structures.

(4) DETERMINING FLOODWAY AND FLOODFRINGE LIMITS. Upon receiving an application for development within the general floodplain district, the Zoning Administrator shall:

(a) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and flood proofing measures; and the flood zone as shown on the FIRM.

(b) Require the applicant to furnish any of the following information deemed necessary by the DNR to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries.

1. A Hydrologic and Hydraulic Study as specified in §21.51(2)(c).
2. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
3. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.

21.50 NONCONFORMING USES.

(1) GENERAL

(a) APPLICABILITY. If these standards conform with s. 62.23(7)(h), Stats., for cities and villages, they shall apply to all modifications or additions to any nonconforming use or structure and to the use of any structure or premises which was lawful before the passage of this chapter or any amendment thereto.

(b) The existing lawful use of a structure or its accessory use which is not in conformity with the provisions of this chapter may continue subject to the following conditions:

1. No modifications or additions to a nonconforming use or structure shall be permitted unless they comply with this chapter. The words "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Maintenance is not considered a modification; this includes painting, decorating, paneling and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck in order to provide safe ingress and egress to the principal structure.
2. If a nonconforming use or the use of a nonconforming structure is discontinued for 12 consecutive months, it is no longer permitted and any future use of the property, and any structure or building thereon, shall conform to the applicable requirements of this chapter;
3. No modification or addition to any nonconforming structure or any structure with a nonconforming use, which over the life of the structure would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this

chapter, including the provision of contiguous dry land access in compliance with §21.30(3)(a) or (c). The costs of elevating the lowest floor of a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50% provisions of this paragraph.

4. No maintenance to any nonconforming structure or any structure with a nonconforming use, the cost of which would equal or exceed 50% of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with §21.30(3)(a) or (c).
5. If on a per event basis the total value of the work being done under (d) and (e) equals or exceeds 50% 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 chapter. Contiguous dry land access must be provided for residential and commercial uses in compliance with §21.30(a).
6. Except as provided in subd. 7, if any nonconforming structure or any structure with a nonconforming use that is destroyed or substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50% of the structure's present equalized assessed value.
7. For nonconforming buildings that are substantially damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming 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 §21.52(2).
 - 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.

v. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in §21.40(3)(a).

vi. in AO Zones, shall have adequate drainage paths around structures on slopes to guide floodwaters around and away from the structure.

b. Nonresidential Structures

i. Shall meet the requirements of §21.50(1)(b)7ai-ii and v-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 §21.52(1) or (2).

iii. In AO Zones with no elevations specified, shall have the lowest floor, including basement, meet the standards in §21.40(3)(a).

(c) The Village Zoning Administrator shall keep a record which lists all nonconforming uses and nonconforming structures subject to this chapter, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent.

(d) A nonconforming 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 s. §21.20(3)(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with §21.52 are used. Repair or rehabilitation of historic structures shall be exempt from the development standards of §21.50(b)7a 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) FLOODWAY DISTRICT. (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodway 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. (1);

3. Will not increase the obstruction to flood flows or regional flood height;

4. Will be floodproofed, pursuant to §21.52, by means other than the use of fill, to the flood protection elevation; and

5. Any enclosed part of the foundation below the flood protection elevation will conform to the following standards:

- 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 openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening shall be no more than 12 inches above the adjacent grade;
- b. The parts of the foundation located below the flood protection elevation shall be constructed of flood-resistant materials;
- c. Mechanical and utility equipment shall 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 Floodway District. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all Village ordinances and ch. SPS 383, Wis. Adm. Code and be floodproofed in compliance with §21.52.

(c) No new well or modification to an existing well used to obtain potable water shall be allowed in the Floodway District. Any replacement, repair or maintenance of an existing well in the Floodway District shall meet the applicable requirements of all Village ordinances and chs. NR 811 and NR 812, Wis. Adm. Code and be floodproofed in compliance with §21.52.

(3) FLOODFRINGE DISTRICT. (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in the Floodfringe District unless such modification or addition has been granted a permit or variance by the Village, and meets the requirements of §21.30(3) or of a variance granted under par. (b).

(b) Where compliance with the provisions of par. (a) would result in unnecessary hardship and only where the structure will not be used for human habitation or be associated with a high flood damage potential, the Board of Zoning Appeals may grant a variance from such provisions for modifications or additions applying the criteria listed below. Modifications or additions that are protected to elevations lower than the flood protection elevation may be permitted if:

1. No floor in a residential or commercial structure is allowed below the regional flood elevation;
2. Human lives will not be endangered;
3. Public facilities, such as water or sewer, shall not be installed;
4. Flood depths will not exceed two feet;
5. Flood velocities will not exceed two feet per second; and

6. The structure shall not be used for storage of materials as described in §21.30(3)(e).
 - (c) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all Village ordinances and ch. SPS 383, Wis. Adm. Code and be floodproofed as provided in §21.52.
 - (d) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this chapter, and chs. NR 811 and NR 812, Wis. Adm. Code and be floodproofed as provided in §21.52.

21.51 ADMINISTRATION.

- (1) **ZONING ADMINISTRATOR.** The Zoning Administrator is authorized to administer this chapter and shall have the following duties and powers:
 - (a) 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.
 - (b) Issue permits and inspect properties for compliance with provisions of this chapter and issue certificates of compliance where appropriate.
 - (c) Inspect and assess all damaged floodplain structures to determine if substantial damage to the structures has occurred.
 - (d) Keep records of all official actions such as:
 1. All permits issued, inspections made, and work approved.
 2. Documentation of certified lowest floor and regional flood elevations.
 3. Floodproofing certificates.
 4. Water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments.
 5. All substantial damage assessment reports for floodplain structures.
 6. List of nonconforming structures and uses.
 - (e) Submit copies of the following items to the DNR Regional office:
 1. Within 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.
- (f) Investigate, prepare reports, and report violations of this chapter to the Planning & Zoning Commission and the Village Attorney for prosecution. Copies of the reports shall also be sent to the DNR Regional office.

(g) Submit copies of amendments and biennial reports to the FEMA Regional office.

(2) ZONING PERMITS. A zoning 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, within the Floodway or Floodfringe Districts may be initiated. Applications shall be filed with the Zoning Administrator and shall include:

(a) General Information.

1. Name and address of the applicant, property owner and contractor; and
2. Legal description, proposed use, and whether it is new construction or a modification.

(b) Site Development Plan. A site plan drawn to scale shall be submitted with the permit application form and shall contain:

1. Location, dimensions, area and elevation of the lot;
2. Location of the ordinary highwater mark of any abutting navigable waterways;
3. Location of any existing and proposed structures with distances measured from the lot lines and street center lines;
4. Location of any existing or proposed on-site sewage systems or private water supply systems;
5. Location and elevation of existing or future access roads;
6. Location of floodplain and floodway limits as determined from the official floodplain zoning maps;
7. The elevation of the lowest floor of proposed buildings and any fill using the vertical datum from the adopted study – either National Geodetic Vertical Datum (NGVD) or North American Vertical Datum (NAVD);
8. Data sufficient to determine the regional flood elevation in NGVD or NAVD at the location of the development and to determine whether or not the requirements of §21.20 or 21.30 are met; and
9. Data to determine whether the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge

according to §21.05. This may include any of the information noted in §21.20(3)(a).

(c) Hydraulic and Hydrologic Studies. All hydraulic and hydrologic studies shall be completed under the direct supervision of a professional engineer registered in Wisconsin. The engineer shall be responsible for the technical adequacy and accuracy of the study. All studies shall be reviewed and approved by the DNR. The required studies shall include:

1. Zone A floodplains:

- a. Hydrology. 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*.
- b. 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 standards:
 - i. 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.
 - ii. A survey of channel sections shall be included.
 - iii. A minimum four foot contour data in the overbanks shall be used for the development of cross section overbank and floodplain mapping.
 - iv. A maximum distance of 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.
 - v. The most current version of HEC-RAS shall be used.
 - vi. A survey of bridge and culvert openings and the top of road is required at each structure shall be prepared.
 - vii. 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 500 feet.
 - viii. 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.

- ix. 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 0.00 feet.
- c. Mapping. A work map of the reach studied shall be provided, showing all cross section locations, floodway/floodplain limits based on best available topographic data, geographic limits of the proposed development and whether the proposed development is located in the floodway.
 - i. If the proposed development is located outside of the floodway, then it is determined to have no impact on the regional flood elevation.
 - ii. If any part of the proposed development is in the floodway, 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.

2. Zone AE Floodplains.

- a. 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*.
- b. 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:
 - i. 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 Floodway Data Table in the FIS report to within 0.1 foot.
 - ii. 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 DNR review.
 - iii. 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.
 - iv. 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.

- v. All changes to the Duplicate Effective Model and subsequent models must be supported by certified topographic information, bridge plans, construction plans and survey notes.
- vi. 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 topwidths 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.
- c. Mapping. Maps and associated engineering data shall be submitted to the DNR for review which meet the following conditions:
 - i. 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.
 - ii. 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.
 - iii. Annotated FIRM panel showing the revised 1% and 0.2% annual chance floodplains and floodway boundaries.
 - iv. 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.
 - v. The revised floodplain boundaries shall tie into the effective floodplain boundaries.
 - vi. 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.
 - vii. Both the current and proposed floodways shall be shown on the map.
 - viii. The stream centerline, or profile baseline used to measure stream distances in the model shall be visible on the map.

(d) Expiration. All permits issued under this chapter shall expire no more than 180 days after issuance. The permit may be extended by the Zoning Administrator for a maximum of 180 days for good and sufficient cause.

(3) CERTIFICATE OF COMPLIANCE. No land subject to this chapter 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. The following provisions apply to certificates issued under this section.

(a) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this chapter;

(b) Application for such certificate shall be concurrent with the application for a permit;

(c) If all ordinance provisions are met, the certificate of compliance shall be issued within 10 days after written notification that the permitted work is completed;

(d) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that the requirements of §21.52 are met.

(4) OTHER PERMITS. Prior to obtaining a floodplain development permit the applicant shall 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 §404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S.C. §1344.

(5) BOARD OF ZONING APPEALS.

(a) Powers and Duties. The powers, duties and procedures applicable to the Board of Zoning Appeals as provided in §15.03(4) shall apply with respect to the enforcement of this chapter.

(b) Additional Requirements for Appeals and Variances affecting Floodplains. In the case of any appeal or application for variance relating to the provisions of this chapter, the following provisions shall apply:

1. Notice of Hearings. Notice of all hearings shall be mailed to the DNR Regional office at least 10 days in advance of the hearing.

2. Notice of Decisions. Copies of all decisions by the board shall be sent to the DNR Regional office within 10 days of the decision.

3. Boundary Disputes. The following provisions shall apply to all decisions by the board relating to the determination of floodplain district boundaries:

a. 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;

- b. The person contesting the boundary location shall be given a reasonable opportunity to present arguments and technical evidence to the board; and
 - c. If the boundary is incorrectly mapped, the board shall notify the Zoning Administrator and the person contesting the boundary location that they may petition the Village Board for a map amendment pursuant to §21.60.
- 4. Variances. In addition to the standards for variances contained in §15.03(6), the following provisions shall apply to variances from the regulations contained in this chapter:
 - a. No variance shall:
 - i. Allow any increase in the regional flood elevation;
 - ii. Be granted for any lot that is one-half acre or larger or that is not contiguous to an existing structure;
 - iii. Grant, extend or increase any use prohibited in the zoning district;
 - iv. Be granted for a hardship based solely on an economic gain or loss;
 - v. Be granted for a hardship which is self-created;
 - vi. Damage the rights or property values of other persons in the area;
 - vii. Allow actions without the amendments to this chapter or map(s) required pursuant to §21.60; or
 - viii. Allow any alteration of a historic structure, including its use, which would preclude its continued designation as a historic structure.
 - b. 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;
 - c. 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 \$25.00 per \$100.00 of coverage. A copy shall be maintained with the variance record.
- 5. Appeals from Denial of Permits. In reviewing the denial of any permits required under this chapter based on the determination that the permit would allow an increase in the regional flood elevation, the board shall:
 - a. Uphold the denial if the board determines that the data demonstrates that an increase in flood elevation will occur and that an appropriate amendment has not been made as required by §21.60; or

- b. Grant the appeal and direct the issuance of the permit if the board determines that the data properly demonstrates that the project will not cause an increase, provided no other reasons for denial exist.

21.52 FLOODPROOFING STANDARDS FOR NONCOMFORMING STRUCTURES OR USES.

(1) 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.

(2) For a structure designed to allow the entry of floodwaters, no permit or variance shall be issued until the applicant submits a plan which:

(a) Is certified by a registered professional engineer or architect; and

(b) Meets or exceeds the following standards:

1. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding will be provided;
2. The bottom of all openings shall be no higher than one foot above grade; and
3. If the openings are equipped with screens, louvers, valves, or other coverings or devices, they permit the automatic entry and exit of floodwaters.

(3) Floodproofing measures shall be designed, as appropriate, to:

- (a) Withstand anticipated flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
- (b) Protect structures to the flood protection elevation;
- (c) Anchor structures to foundations to resist flotation and lateral movement;
- (d) Minimize or eliminate infiltration of flood waters; and
- (e) Minimize or eliminate discharges into flood waters.

21.53 PUBLIC INFORMATION.

(1) Place marks on structures to show the depth of inundation during the regional flood.

(2) All maps, engineering data and regulations shall be available and widely distributed.

(3) Real estate transfers should show what floodplain district any real property is in.

21.60 AMENDMENTS.

(1) REQUIRED AMENDMENTS. Obstructions or increases in regional flood elevation shall only be permitted if appropriate amendments are made to this chapter, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with this section. In addition to such amendments, a Letter of Map Revision from FEMA is required, and all amendments shall be effective only upon approval by the DNR and FEMA for all:

- (a) obstructions or increases in the AE Zones; and
- (b) increases equal to or greater than 1.0 foot in A Zones.

(2) MAP AND TEXT AMENDMENTS. Actions which require an amendment to floodplain district boundaries or this chapter and/ or require submittal of a Letter of Map Change (LOMC) include, but are not limited to, the following:

1. Any fill or floodway encroachment that obstructs flow causing any increase in the regional flood height;
2. Any change to the floodplain boundaries and/or watercourse alterations on the FIRM;
3. Any changes to any other officially adopted floodplain maps listed in §21.03(2)(b);
4. 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;
5. Correction of discrepancies between the water surface profiles and floodplain maps;
6. 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 Village; and
7. 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) AMENDMENT PROCEDURES. (a) Petition. Map and text amendments may be initiated as provided in §15.03(7)(b). Any petition for amendment to this chapter or any maps incorporated herein shall include all data required by §21.40(4) and 21.51(2).

(b) Hearing and Determination. Proposed amendments shall be referred to the Planning & Zoning Commission for review and recommendation as provided in §15.03(7)(d) and (e). The Zoning Administrator shall assure that the proposed amendment and notice of public hearing is submitted to the DNR Regional office for review prior to the hearing.

(c) Effective Date of Amendments. No amendment to this chapter, or the maps incorporated herein, shall become effective until reviewed and approved by the DNR. No zoning permit requiring an amendment shall be issued until a Letter of Map Revision is issued by FEMA for the proposed changes.

(d) Required Easements. Any person petitioning for a map amendment that would allow an obstruction to 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 provide copies thereof to the Zoning Administrator before the amendment is acted upon by the Village Board.

21.61 ENFORCEMENT AND PENALTIES.

Any violation of the provisions of this chapter shall be referred to the Village Attorney for prosecution. A violator shall, upon conviction, be subject to a forfeiture of not less than \$25.00 and not more than \$50.00, together with a taxable cost of such action. Each day of a continuing violation shall constitute a separate offense. Every violation of this chapter is hereby declared to be a public nuisance and its creation or continuation may be enjoined and the maintenance may be abated by action by the Village, the state, or any citizen thereof pursuant to §87.30, Wis. Stats.

CHAPTER 22
SOLID WASTE MANAGEMENT
[Repl. & Recr. 09-14, Eff. 6-5-09]

22.01	General Provisions	22-1
22.02	Declaration of Policy.....	22-1
22.03	Definitions.....	22-2
22.04	Mandatory Separation and Recycling	22-5
22.05	Solid Waste and Recyclable Materials Storage.....	22-8
22.06	Collection by Village Contractor.....	22-8
22.07	Approved Collection Containers	22-9
22.08	Prohibited Activities	22-10
22.09	Violations; Notices; Special Collections for Violations	22-11
22.20	Licensing of Solid Waste and Recyclable Material Collectors	22-12
22.21	Collection Vehicle Regulations.....	22-13
22.22	Disposal of Yard Wastes	22-13
22.23	Public Education	22-14
22.24	Enforcement	22-14

22.01 GENERAL PROVISIONS.

(1) **TITLE.** This Chapter shall be known as the DeForest Solid Waste Management Ordinance of the Village of DeForest.

(2) **COMPLIANCE WITH CHAPTER.** It shall be unlawful to store, collect, transport, transfer, recover, incinerate or dispose of any solid waste or recyclable materials within the boundaries of the Village contrary to the provisions of this Chapter.

(3) **LICENSING.** All collectors shall be licensed by the W.D.N.R. and all collected garbage and refuse shall be disposed of in a WDNR licensed disposal site.

(4) **SUPERVISION.** The handling and collection of solid waste and recyclable materials shall be under the supervision of the Village Board, the Director of Public Services, and the Village Administrator. They shall make and enforce such regulations and administrative rules as are necessary regarding the handling and collection of such materials.

[Am. 15-33, Eff. 07-07-15]

(5) **PRIVATE DISPOSAL OF SOLID WASTE.** Nothing in this Chapter shall be construed to prohibit the actual producers of garbage or refuse or the owners of residential units upon which garbage or refuse has been accumulated from personally collecting, conveying and disposing of garbage or refuse at a W.D.N.R. licensed landfill site provided that recyclable materials are not so disposed.

22.02 DECLARATION OF POLICY. It is hereby declared to be the purpose and intent of this Chapter to enhance and improve the environment and promote the health, safety and welfare of the residents of the Village by establishing minimum standards for the storage, collection, transport, processing, separation, recovery and disposal of solid waste.

22.03 DEFINITIONS. As used in this Chapter, the following terms shall have the meanings given herein unless different meanings are clearly indicated by the context:

(1) Bi-metal Container means a container for carbonated or malt beverages that is made primarily of a combination of steel and aluminum.

(2) Collectable Solid Waste means all solid waste that is subject to collection by the Village-authorized contractor by contract and does not include yard waste, recyclable materials, special haul items and materials defined as uncollectable wastes.

(3) Collector means the person or persons specifically authorized by the Village Board to collect garbage, refuse and recyclable materials and dispose of the same.

(4) Collection means the act of removing solid waste or recyclable materials from the storage area at the source of generation.

(5) Container Board means corrugated paperboard used in the manufacture of shipping containers and related products. This does not include waxed cardboard.

(6) Demolition/Construction Waste means that portion of solid wastes consisting of wastes from the construction, repair, remodeling or reconstruction of buildings, such as lumber, roofing and sheathing scraps, rubble, broken concrete, asphalt and plaster, conduit, pipe, wire, insulation and any other materials resulting from the demolition of buildings and improvements.

(7) Disposal means the orderly process of discarding useless or unwanted material.

(8) Foam Polystyrene Packaging means packaging made primarily from foam polystyrene that satisfies one of the following criteria:

1. Is designed for serving food or beverages.
2. Consists of loose particles intended to fill space and cushion the packaged article in a shipping container.
3. Consists of rigid materials shaped to hold and cushion the packaged article in a shipping container.

(9) Garbage means any waste accumulation of animal, fruit or vegetable matter, liquid or solid that attends the preparation, use, cooking, dealing in or storing of meat, fish, fowl, fruit or vegetables, including that from houses, butcher shops and similar establishments and including in both cases natural content of moisture. Any combination of garbage and refuse shall always be deemed to be garbage for the purpose of licensing under this section.

(10) Hazardous Waste means any radioactive, volatile, highly flammable, explosive, toxic or hazardous materials. Hazardous materials shall include, but not be limited to, any amount of waste listed or characterized hazardous by the U.S. Environment Protection

Agency or any state agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, and applicable state law.

- (11) HDPE means high density polyethylene, labeled by the SPI code #2.
- (12) Industrial Waste means waste material, except garbage and refuse, directly or indirectly resulting from an industrial processing or manufacturing operation.
- (13) LDPE means low density polyethylene, labeled by the SPI code #4.
- (14) Magazine means any magazine or other materials printed on similar paper.
- (15) Major Appliance means a residential or commercial air conditioner, clothes dryer, clothes washer, dishwasher, freezer, microwave oven, oven, refrigerator, furnace, boiler, dehumidifier, water heater or stove.
- (16) Multiple Family Dwelling means a property containing more than two (2) residential units, including those which are occupied seasonally.
- (17) Newspaper means a newspaper and other materials printed on newsprint.
- (18) Non-Recyclable Material means all pyrex glass, window glass, light bulbs, mirrors, broken glass and china, melamine type plastics, all waxed paper, waxed cardboard, envelopes with gum labels, envelopes with plastic windows, garbage and refuse, telephone directories, etc., not defined as recyclable materials.
- (19) Non-residential Facilities and Properties include any commercial, retail, industrial, institutional and governmental facilities and properties. This term does not include multiple family dwellings.
- (20) Non-Residential Solid Waste means solid waste from agricultural, commercial, governmental, industrial or institutional activities.
- (21) Office Paper means high-grade printing and writing papers from offices in non-residential facilities and properties. Printed white ledger and computer printout are examples of office paper generally accepted as high-grade. This term does not include industrial process waste.
- (22) Other Resins or Multiple Resins mean plastic resins labeled by the SPI code #7.
- (23) Person includes individuals, firms, corporations and associations, and includes the plural as well as the singular.
- (24) PETE means polyethylene terephthalate, labeled by the SPI code #1.
- (25) Plastic Container means an individual, separate, rigid plastic bottle, can, jar or carton, except a blister pack, that is originally used to contain a product that is the subject of a retail sale.

(26) Post-consumer Waste means any solid waste other than solid waste generated in the production of goods, hazardous waste as defined in §291.01(7), *Wis. Stats.*, demolition/construction wastes, scrap automobiles, or high-volume industrial waste, as defined in s. 289.01(17), *Wis. Stats.*

(27) PP means polypropylene, labeled by the SPI code #5.

(28) Private Collection Services means collection services provided by a person licensed to do so by the D.N.R.

(29) PS means polystyrene, labeled by the SPI code #6.

(30) PVC means polyvinyl chloride, labeled by the SPI code #3.

(31) Recyclable Container means a container authorized and provided by the Village for use in the collection of recyclable materials from residential properties.

(32) Recyclable Materials include lead acid batteries, major appliances, waste oil, yard waste, aluminum containers, corrugated paper or other container board, foam polystyrene packaging, glass containers, magazines, newspaper, office paper, rigid plastic containers (including those made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins), steel containers, waste tires, and bi-metal containers, but does not include any hazardous household wastes.

(33) Refuse means any combustible or noncombustible waste including discarded, relatively dry, miscellaneous materials, comprising chiefly wood, paper, rags, excelsior, straw, leather, boxes, sweepings from buildings and similar discarded articles of combustible and noncombustible nature.

(34) Residential Solid Waste means all solid waste that normally originates in a residential environment from residential dwelling units.

(35) Scavenge means to remove materials placed for collection by one other than a licensed collector at any point in solid waste disposal process.

(36) Solid Waste means garbage, refuse and other useless, unwanted or discarded material, except recyclable materials, from agricultural, residential, commercial, industrial or institutional activities. Solid waste does not include solid or dissolved material in domestic sewage.

(37) Solid Waste Treatment means any method, technique or process which is designed to change the physical, chemical or biological character or composition of solid waste. "Treatment" includes incineration.

(38) Special Haul Items include body waste, dead animals, large vehicle parts, large equipment, large appliances, large discarded furniture and bulky construction/demolition waste shall be considered items subject to special haul services and charges and are not considered residential waste subject to regular weekly collection.

(39) Storage means the interim containment of solid waste in an approved manner after generation and prior to collection and ultimate disposal.

(40) Storage Areas mean areas where persons place containers during non-collection days as well as areas where containers are set out on collection day.

(41) Uncollectable Waste means all of the following waste materials that are not subject to collection by the Village:

- (a) Hazardous waste;
- (b) Toxic waste;
- (c) Chemicals;
- (d) Explosives or ammunition;
- (e) Drain oil or flammable liquids;
- (f) Paint;
- (g) Dead animals or parts thereof, except wastes generated in the process of meal preparation;
- (h) Animal or human waste except as provided in §22.09(7); and
- (i) Demolition/construction wastes.

(42) Waste Container means a container authorized and provided by the Village for use in the collection of garbage, refuse and other collectable solid waste from residential properties.

(43) Waste Tire means a tire that is no longer suitable for its original purpose because of wear, damage or defect.

(44) WDNR means the Wisconsin Department of Natural Resources.

(45) Yard Waste means that part of solid waste consisting of leaves, grass clippings, sawdust, shrubs and garden debris and brush, including clean woody vegetative material no greater than 6 inches in diameter. This term does not include stumps, roots or shrubs with intact root balls.

22.04 MANDATORY SEPARATION AND RECYCLING.

(1) **GENERAL PROVISIONS.** The owner and each occupant of every residential unit, place of business, industry, commerce, school, governmental building or other place providing goods or services of any type shall cooperate in the collection, separation from solid waste, and recycling of recyclable materials as provided in this section, except with respect to industrial wastes not collected by or for the Village. Waste not separated as

required in this section will not be collected and the generator or owner of the waste shall be subject to forfeitures and other remedies provided in this Chapter.

(2) SEPARATION OF RECYCLABLE MATERIALS. All persons within the Village shall separate the following materials from their post-consumer waste:

- (a) Lead acid batteries;
- (b) Major appliances;
- (c) Waste oil;
- (d) Yard waste;
- (e) Aluminum containers;
- (f) Bi-metal containers;
- (g) Corrugated paper or other container board;
- (h) Foam polystyrene packaging;
- (i) Glass containers;
- (j) Magazines;
- (k) Newspaper;
- (l) Office paper;
- (m) Rigid plastic containers made of PETE, HDPE, PVC, LDPE, PP, PS, and other resins or multiple resins;
- (n) Steel containers; and
- (o) Waste tires.

(3) EXEMPTIONS FROM SEPARATION REQUIREMENTS. The separation requirements of sub. (1) above do not apply to the following:

- (a) Persons who send their post-consumer waste to a processing facility licensed by the Wisconsin Department of Natural Resources that recovers the materials specified in this section from solid waste in as pure a form as is technically feasible.
- (b) Solid waste which is burned as a supplemental fuel at a facility if less than 30% of the heat input to the facility is derived from the solid waste burned as supplemental fuel.
- (c) A recyclable material specified in (2)(e) through (2)(n) for which a variance has been granted by the Department of Natural Resources under s. 287.11, *Wis. Stats.*, or s. NR 544.14, Wis. Administrative Code.

(4) CARE OF SEPARATED RECYCLABLE MATERIALS. To the greatest extent practicable, the recyclable materials separated in accordance with this section shall be clean and kept free of contaminants such as food or product residue, oil or grease, or other non-recyclable materials, including but not limited to household hazardous waste, medical waste, and agricultural chemicals.

(5) MANAGEMENT OF LEAD ACID BATTERIES, MAJOR APPLIANCES, WASTE TIRES AND WASTE OIL. Lead acid batteries, major appliances, waste tires and waste oil shall be disposed of as follows:

(a) Lead acid batteries, major appliances and waste tires shall be recycled by contacting a licensed collector to arrange pick-up or by delivering them to a licensed recycling facility. Microwave ovens with capacitors removed may be disposed of in properly licensed landfills.

(b) Waste oil shall be recycled by disposing of it at the Village of DeForest Public Service Building in the tanks provided by the Village or by delivery to another established waste oil collection facility.

(6) PREPARATION AND COLLECTION OF RECYCLABLE MATERIALS. Except as otherwise directed by the DeForest Village Board, occupants of single family and 2 to 4 unit residences shall do the following for the preparation and collection of the separated materials listed below:

(a) Aluminum, bi-metal and steel cans shall have paper labels removed and shall be rinsed clean of product residue and placed in the recyclables container provided.

(b) Glass bottles and jars shall be rinsed clean of product residue and shall have caps removed and shall be placed, unbroken if possible, in the recyclables container provided. Labels, caps, window glass, light bulbs and ceramics shall not be placed in the recyclables container.

(c) Plastic bottles and rigid plastic containers made of HDPE, PETE, PVC, LDPE, PP or PS and other resins or multiple resins shall be rinsed free of product residue and caps shall be removed and discarded. The plastic bottles and containers shall be placed in the recyclables container.

(7) RESPONSIBILITIES OF OWNERS OR DESIGNATED AGENTS OF NONRESIDENTIAL AND LARGE MULTIPLE-FAMILY DWELLINGS. (a) Owners or designated agents of multiple-family dwellings containing 5 or more units and of all properties containing one or more non-residential units shall do all of the following to recycle the materials specified in (2)(e) through (2)(n):

1. Provide adequate, separate containers for the recyclable materials.
2. Notify in writing, at least semi-annually, all users, tenants and occupants of the properties about the established recycling program.

3. Provide for the collection of the materials separated from the solid waste by the users, tenants and occupants and the delivery of the materials to a recycling facility.
 4. Notify users, tenants and occupants of reasons to reduce and recycle, which materials are collected, how to prepare materials in order to meet the processing requirements, collection methods or sites, locations and hours of operation, and a contact person or company, including a name, address and telephone number.
- (b) The requirements specified in (a) do not apply to the owners or designated agents of non-residential facilities and properties if the post-consumer waste generated within the facility or property is treated at a processing facility licensed by the Department of Natural Resources that recovers for recycling the materials specified in (2)(e) through (2)(n) from solid waste in as pure a form as is technically feasible.

(8) RESPONSIBILITIES OF OWNERS OF 2-4 UNIT MULTIPLE-FAMILY DWELLINGS. Owners of multiple-family dwellings not subject to sub. (7) are hereby required to provide adequate, separate containers for the disposal of recyclables. Such owners are further required to notify tenants on "move-in" and on a semi-annual basis thereafter of all Village recycling requirements.

(9) PROHIBITIONS ON DISPOSAL OF RECYCLABLE MATERIALS SEPARATED FOR RECYCLING. (a) No person may dispose of in a solid waste disposal facility or burn in a solid waste treatment facility any of the materials specified in subs. (2)(e) through (2)(n) which have been separated for recycling, except waste tires may be burned with energy recovery in a solid waste treatment facility.

22.05 SOLID WASTE AND RECYCLABLE MATERIALS STORAGE.

(1) MAINTENANCE OF STORAGE AREAS. Storage areas and containers for solid waste and recycling materials shall be kept in a nuisance-free and odor-free condition. All containers shall be kept closed except when material is being deposited or collected such that deposited material does not escape from the container. Solid waste and recyclable materials will not be collected unless contained within an approved container at the time of scheduled collection.

(2) NUISANCE DECLARED. The accumulation or deposit of garbage, refuse or putrescible animal or vegetable matter in or upon any lot or land or any public or private place within the Village which causes the air or environment to become noxious or offensive or to be in such a condition as to promote a breeding place for rodents or other animals, or which otherwise becomes injurious to the public health is prohibited and declared to constitute a nuisance. For purposes of this section, a condition of property shall be deemed a nuisance if it is offensive to a person of average sensibilities.

22.06 COLLECTION BY VILLAGE CONTRACTOR. (a) Solid Waste and Recyclable Material Collection. Collectable solid waste generated by residential or commercial properties within the Village shall be collected weekly, and all recyclable materials shall be collected from such properties biweekly, on a schedule established by the Village Board in accordance with a contract between the Village and a licensed collector.

(b) Special Haul Items. Special haul items shall not be included in normal collection provided by the Village and shall be disposed of by the owner thereof under separate arrangements with the Village's authorized collector or another licensed collector. The Director of Public Services shall make available to the public information on arranging for special haul item collection upon request.

[Am. 15-33, Eff. 07-07-15]

22.07 APPROVED COLLECTION CONTAINERS. (1) APPROVED CONTAINERS REQUIRED. (a) Standard Containers. All collectable solid waste placed for collection by the Village shall be placed within a single waste container approved and provided by the Village. All recyclable materials for collection by the Village shall be placed within a single, separate recyclable container approved and provided by the Village. New residential units shall be provided with a waste container and recyclable container at no charge. Additional approved containers may be placed for collection by any person who has arranged with the Village-authorized collector for the collection of additional waste or recyclables at such person's sole expense. No container shall be subject to collection if the combined weight of the container and contents exceeds 175 lbs.

[Am. 10-21, Eff. 3-18-10].

(b) Special Exceptions. In any case where a property contains more than 4 residential or commercial units in the aggregate, and where, due to the size, location, configuration or other features of the property the Village Administrator shall determine that the number of containers would present a danger to the public safety or a significant impediment to efficient collection, the Administrator may authorize and/or require the use of a specified non-standard container or alternative collection methods provided that the property owner is provided an equivalent level of disposal capacity and that the alternative method does not result in any additional cost to the property owner. Non-standard containers shall be subject to any weight limitation determined necessary by the Administrator, but the total weight limit shall not be less than the aggregate weight allowed for all units if using standard containers.

(2) OWNERSHIP OF CONTAINERS. All waste containers and recyclable containers provided by the Village shall remain the property of the Village at all times, and shall be returned to the Village at the direction of the Village Board. No person shall remove any container provided to a particular property from that property without the consent of the Village, except that the owner or occupant of such property may temporarily remove a container provided that it is returned to the original location prior to the next scheduled collection date. No containers shall be removed from the Village limits at any time without the written approval of the Director of Public Services or Village Administrator. Each owner of property shall be responsible for the protection of all containers provided by the Village for use at such property from damage, theft or other loss and the cost of repair or replacement if necessitated by any cause.

[Am. 15-33, Eff. 07-07-15]

(3) ADDITIONAL OR REPLACEMENT CONTAINERS.

(a) Replacement Containers. Damaged, stolen or lost containers shall be replaced by the Village at a cost to the property owner established by the Village Board from time to time to reflect the cost to the Village of providing such replacements. Notwithstanding the foregoing, containers damaged solely by Village-operated snow plows

shall be replaced by the Village at no cost provided that the damage is reported to the Village within 72 hours of its occurrence and the cause of the damage can be verified.

(b) Additional Containers. Additional containers may be purchased from the Village's authorized collector.

(c) Exchange of Containers. The Village Board may authorize the voluntary exchange of containers for similar containers of a different size and may establish an exchange fee to defray the cost of administering the exchange program from time to time. Purchasers of existing residential units shall be exempt from the exchange fee for a single exchange during the first thirty (30) days following the closing on the purchase. Exchanges of containers issued for rental units may be authorized only by the owner of the units and the exchange fee shall apply on a per unit basis. All additional, replacement or exchanged containers shall remain the property of the Village notwithstanding any fee paid to the Village.

[Am. 10-21, Eff. 3-18-10].

(4) PLACEMENT OF CONTAINERS FOR COLLECTION. Containers for collection shall be placed near the street and in or near a driveway, where applicable, in a location that is at least four (4) feet from any other above-ground object and at least ten (10) feet from any parked vehicle and outside of the traveled portion of the roadway. In cases where such placement is not practicable due to accumulated snow or other conditions, containers may be placed in the gutter as close to the curb as possible. Containers shall be placed with the lid securely closed and the lid opening toward the street to facilitate mechanized collection. In the case of non-standard containers approved by the Village Administrator pursuant to sub. (1), the placement of the containers for collection shall be directed by the Administrator. Containers may be placed for collection not earlier than 6:00 p.m. on the day prior to the scheduled collection day and shall be removed not later than 10:00 a.m. on the day following scheduled collection.

[Am. 10-21, Eff. 3-18-10].

(5) PROHIBITED WASTES. It shall be unlawful for any person to place any recyclable materials within a waste container, or to place any solid waste within a recyclable container. It shall be unlawful for any person to place any uncollectable waste in any container for collection by the Village.

(6) CONTRACT INCORPORATION BY REFERENCE. The terms of any contract from time to time entered into by the Village for waste and recyclable material collection, transfer or disposal under this Chapter shall be incorporated by reference and made an integral part of this Chapter. The contract shall be subject to the same penalties and enforcement provisions as any other section of this Chapter. Any conflict between the existing ordinance and a contract shall be resolved in favor of the contract.

22.08 PROHIBITED ACTIVITIES.

(1) ASHES. It shall be unlawful to place hot ashes for collection. Ashes that are cool and dry may be placed for collection, but only in noncombustible containers.

(2) IMPROPER DISPOSAL. No persons shall deposit, throw or place any garbage, offal, dead animals, combustible refuse or other deleterious matter in any park, lane, alley,

street, public grounds or public place within the Village, nor place any garbage, offal, dead animals or other refuse matter upon any private property not owned by such person.

(3) IMPROPER TRANSPORTATION. It shall be unlawful to transport any solid waste in any vehicle which permits the contents to blow, sift, leak or fall therefrom. In the event spillage occurs from any cause, the person transporting the material shall immediately return spilled materials to the vehicle and shall properly clean, or have cleaned, the area of such material. All vehicles used for the collection and transportation of solid waste shall be durable, easily cleanable and leak-proof, if necessary, considering the type of waste and its moisture content. Collection vehicles shall be cleaned frequently to prevent nuisances and insect breeding and shall be maintained in good repair.

(4) INTERFERENCE WITH AUTHORIZED COLLECTOR. No person other than an authorized collector shall collect or interfere with any solid waste or recyclable material after it shall have been put into an approved container and placed for collection, nor shall any person molest, hinder, delay or in any manner interfere with an authorized garbage collector in the discharge of his duties.

(5) SCAVENGING. It shall be unlawful for any person to scavenge any solid waste or recyclable material placed for collection.

(6) BURNING OF WASTE. It shall be unlawful for any person to burn solid waste in any manner, except as expressly authorized in this Code.

(7) ANIMAL OR HUMAN WASTES. It shall be unlawful for any person to place animal and/or human wastes for collection unless wrapped securely in plastic bags. Such items as cat litter and disposable diapers may be placed for collection pursuant to this provision.

(8) HOSPITAL WASTES. It shall be unlawful for any person to place for collection any pathogenic hospital wastes. Such items as needles and syringes may be placed in waste containers provided they are contained within a rigid material to eliminate the risk of injury to collection crews.

(9) REFUSE FROM OUTSIDE THE VILLAGE. It shall be unlawful for any person to deposit for collection within the Village any solid waste, yard waste or recyclable materials generated or collected outside of the Village limits.

(10) MANURE STORAGE. No manure from any animal shall be stored within the Village except in fly-proof and impervious containers which are kept and maintained in good repair.

22.09 VIOLATIONS; NOTICES; SPECIAL COLLECTIONS FOR VIOLATIONS.

(1) NOTICES. In the event of any violation of this Chapter and/or the regulations and administrative rules authorized herein or the statutes of the State of Wisconsin, any law enforcement officer, the Director of Public Services, the Village Building Inspector or Village Administrator shall issue a written notice of each violation and the corrective measures to be taken, together with the time in which such corrections shall be made. Time limits set for the correction of violations shall be reasonable and consistent. The Police Department, the

Director of Public Services and Village Administrator shall consider time needed for repairs or purchases to correct deficiencies, public health and consistent time limits for like violations. Time limits shall not be greater than ten (10) working days nor less than twenty-four (24) hours. All such notices shall be kept in a clearly marked file at the Police Department and shall be available for public inspection during regular business hours.

[Am. 15-33, Eff. 07-07-15]

(2) SPECIAL COLLECTIONS FOR VIOLATIONS. If any entity, including those receiving collection from a private firm, is found in violation of the collection and storage requirements of this Chapter and fails to comply with a notification and/or requirements of this Chapter and fails to comply with a notification and/or citation, the Police Department, the Director of Public Services or Village Administrator shall be empowered to order a special collection to remove such violation. The person shall be notified of such special collection and the charges therefor. The special collection shall be made and if billing is unpaid, the bill shall be levied as a special charge against the property and shall be placed on the tax roll. A person shall not use the special collection provisions of this Chapter to circumvent requirements for collection by a private firm.

[Am. 15-33, Eff. 07-07-15]

22.20 LICENSING OF SOLID WASTE AND RECYCLABLE MATERIAL COLLECTORS.

(1) LICENSE REQUIRED. No person shall engage in the business of collecting solid waste or recyclable materials in the Village without first obtaining from the Village a license to do so. Applications for licenses shall be presented to the Village Board on forms prepared by the Village Clerk and shall be accompanied by the license fee of One Hundred and Twenty-five Dollars (\$125.00).

(2) TRANSFER OF LICENSES. Licenses may not be transferred except upon approval by the Village Board.

(3) COMPLIANCE WITH ORDINANCES AND REGULATIONS. It is a condition of all licenses granted under this Chapter that the license holder shall comply with the ordinances of the Village, the rules, regulations and orders of the local and State Boards of Health, and the Wisconsin Statutes relating to the collecting, hauling and disposal of waste.

(4) REVOCATION OR SUSPENSION OF LICENSE. The Village Board may revoke or suspend any license issued under this Chapter for cause after hearing held on not less than three (3) days' notice to the holder thereof. No person whose license or permit has been revoked shall again be issued such license or permit under this Chapter within one (1) year from the date of revocation.

(5) EXPANSION OF COLLECTION BY VILLAGE. In the event that a program for industrial garbage collection by the Village is established, the Village Board may terminate any license issued under this Chapter without hearing on thirty (30) days' written notice to the license holder that any such collection is being established. Such collection and termination would be subject to any private contracts in effect at the time service would be established.

(6) LIABILITY INSURANCE REQUIRED. No license shall be issued until the applicant has furnished satisfactory proof that he has in full force and effect a public liability insurance policy issued by an insurer authorized to do business in the State of Wisconsin for the applicant's total operation in amounts at least Two Hundred Thousand Dollars (\$200,000.00) per person and Five Hundred Thousand Dollars (\$500,000.00) per occurrence for bodily injury, including accidental death, and Five Hundred Thousand Dollars (\$500,000.00) per occurrence for property damage.

22.21 COLLECTION VEHICLE REGULATIONS.

(1) VEHICLE REQUIREMENTS. All trucks or other vehicles used by waste collectors shall be of substantial construction, and the body shall be watertight or shall be a type commonly known as "packers." All vehicles shall be properly designed, constructed, equipped and loaded so that the contents shall fall or blow from the vehicle.

(2) PARKING RESTRICTIONS. No person shall park or cause to be parked any such vehicle as described in subsection (1) and used by such waste collectors in any Residential, Commercial, or Conservancy District of the Village for more than one (1) hour, unless disabled, or awaiting repair at a repair garage. This section shall not apply to any Village vehicle.

(3) VEHICLE SIGNAGE. Vehicles used by licensed collectors shall have painted or otherwise securely affixed on both sides of the vehicle used the name and contact information of the owner and the Village license number in letters and numbers not less than three (3) inches in height, in contrasting colors and ordinarily visible at a distance of fifty (50) feet.

22.22 DISPOSAL OF YARD WASTES. (1) PERMITTED METHODS OF DISPOSAL

(a) Yard waste shall be disposed of in one of the following ways:

1. Transporting the waste to the Village Yard Waste Facility;
2. Composting the waste at the site of generation; or
3. Contracting privately for removal and disposal.

(b) Brush. In addition to the methods authorized by par. (a), brush may be disposed of by placement for pick-up by the Village as provided in sub. (3).

(2) VILLAGE YARD WASTE FACILITY REGULATIONS. (a) Permitted Materials. No person shall deposit any yard waste or other material at the Village Yard Waste Facility other than material generated on real property located within the Village. No person shall deposit any material other than yard waste at such site, unless the Village Board shall authorize collection of additional materials on either a regular or special collection basis by resolution.

(b) Administrative Regulations. The Village Administrator or Director of Public Services may establish administrative regulations governing the operation of the facility.

Such regulations shall be posted in a conspicuous place at the facility. A violation of any such regulations shall be deemed a violation of this ordinance.

[Am. 15-33, Eff. 07-07-15]

(c) Hours of Operation. No person shall enter, deposit any materials or otherwise use the facility other than during the established hours of operation. Hours of operation may be established from time to time by the Village Board or by administrative regulation as provided in par. (b).

(d) Deposit of Materials. No person shall deposit any materials at the facility except in designated containers, bunkers or other locations specified by regulation.

(e) Sticker required. No vehicle may enter the Village Yard Waste Facility unless the vehicle displays a current sticker issued by the Village authorizing entry. Any person violating this restriction shall be subject to a forfeiture. This restriction does not apply to Village owned vehicles. The Village Administrator or Director of Public Services may establish administrative regulations regarding the issuance of stickers and related policies.
[Cr. 20-06, Eff.3-27-20]

(3) BRUSH COLLECTION. Tree and shrub trimmings, holiday trees, and brush shall be collected from individual properties by the Village according to a schedule established by the Village Board. To qualify for collection, such materials shall be placed on the terrace or other location adjacent to the street, perpendicular to the street, with the butt end of all branches aligned in the same direction. Branches shall not exceed 8' in length or 6" in diameter. Any brush not placed in conformance with this subsection will not be collected.

22.23 PUBLIC EDUCATION. The Village Board will have the responsibility of informing the Public on the benefits and prescribed methods of recycling. All notices as to variations in pickup, times and places of public recycling meetings and public education seminars will be published in the official Village newspaper and/or posted on the Village's web site.

22.24 ENFORCEMENT.

(1) For the purpose of ascertaining compliance with the provisions of this chapter, any authorized officer, employee or representative of the Village may inspect recyclable materials separated for recycling, post-consumer waste intended for disposal, recycling collection sites and facilities, collection vehicles, collection areas of multiple-family dwellings and non-residential facilities and properties, and any records relating to recycling activities. No person may refuse access to any authorized officer, employee or authorized representative of the Village who requests access for purposes of inspection, and who presents appropriate credentials. No person may obstruct, hamper, or interfere with such an inspection.

(2) Any violation of the provisions of this Chapter shall be subject to forfeitures as provided herein. The issuance of a citation shall not preclude enforcement under any other ordinance or law relating to the same or any other matter. Proceedings under any other ordinance or law relating to the same or any other matter shall not preclude the issuance of a citation under this subsection. [Am. 14-13, Eff. 04-15-14]

(3) Penalties for violating this chapter shall be assessed as follows:

- (a) Any person who violates §22.04 shall forfeit up to \$50 for a first violation, not less than \$50 nor more than \$200 for a second violation, and not less than \$200 nor more than \$2000 for a third or any subsequent violation together with the costs of prosecution.
- (b) Any person who violates a provision of this Chapter other than §22.04 shall forfeit not less than \$10 nor more than \$1000 for each violation together with the costs of prosecution.
- (c) The Village Board may, upon notice and hearing, administratively suspend the solid waste and recycling material collection of any person in the Village for non-compliance with this Chapter.

(4) Each day that a violation continues shall constitute a separate offense.

CHAPTER 24

EROSION CONTROL AND STORM WATER MANAGEMENT

[Repl & Recr. 19-22; Eff. 12-27-19]

24.01	Title.....	24-1
24.02	Authority	24-1
24.025	Additional Standards	24-1
24.03	Findings and Declaration of Policy	24-1
24.04	Purpose and Intent.....	24-2
24.05	Definitions.....	24-3
24.06	Scope of Geographic Coverage and Administration.....	24-8
24.07	Erosion Control Permits – When Required	24-9
24.08	Storm Water Management Permits – When Required	24-9
24.09	Exemptions and Clarifications.....	24-10
24.10	Pre-Application Conference.....	24-11
24.11	Erosion Control and Storm Water Management Permits and Administration	24-11
24.12	Erosion Control Plan Requirements	24-18
24.13	Storm Water Management Plan Requirements	24-21
24.14	Off-Site Storm Water Management.....	24-28
24.15	Technical Standards and Specifications	24-28
24.16	Appeals and Variances.....	24-29
24.165	Stop Work Order	24-30
24.17	Permit Fees.....	24-31
24.18	Penalties	24-32
24.19	Interpretation	24-32
24.20	Severability.....	24-33

24.01 TITLE. This Chapter shall be known as, referred to, and may be cited as the "Erosion Control and Storm Water Management Ordinance" of the Village of DeForest.

24.02 AUTHORITY. This Chapter is adopted under the authority granted by Wis. Stats. §61.354.

24.025 ADDITIONAL STANDARDS. In addition to the requirements of this Chapter, every person required to obtain a permit hereunder shall comply with all applicable performance standards promulgated by county, state, or federal agencies governing construction site erosion control and storm water runoff, as they may be amended from time to time, including, but not limited to, the regulations contained in Chapter NR 151, Wis. Admin. Code and Chapter 14 of the Dane County Code of Ordinances. Wherever the requirements of this chapter conflict with the applicable county, state or federal requirements, the more restrictive standard shall apply. Every application for a permit under this Chapter shall demonstrate compliance with all applicable standards. Where activities are not specifically addressed in this Chapter, standard practices implemented by Dane County shall apply.

24.03 FINDINGS AND DECLARATION OF POLICY.

(1) FINDINGS. The Village Board finds that construction site erosion and uncontrolled storm water runoff from land development activities adversely affect the water resources and the health, safety, property, and general welfare of the community, and diminish the public enjoyment and use of natural resources. Soil erosion and storm water runoff specifically can:

- (a) Carry sediment, nutrients, pathogens, organic matter, heavy metals, toxins and other pollutants to regional lakes, streams, creeks, and wetlands;
- (b) Diminish the capacity of water resources to support recreational uses and a natural diversity of plant and animal life;
- (c) Obstruct the Village's existing storm water drainage system, increasing maintenance problems and costs;
- (d) Cause bank and channel erosion;
- (e) Increase downstream flooding;
- (f) Reduce groundwater recharge, thereby potentially diminishing stream base flows and lowering water levels in regional lakes, ponds, and wetlands;
- (g) Contaminate drinking water supplies;
- (h) Increase the risk of property damage and personal injury; and
- (i) Cause damage to agricultural fields and crops.

(2) DECLARATION OF POLICY. The Village Board finds and declares that effective erosion control and storm water management depends on proper planning and design, and the timely installation of conservation and management practices and their continuing maintenance.

24.04 PURPOSE AND INTENT.

(1) PURPOSE. The purpose of this Chapter is to diminish threats to public health and safety, public and private property, and the natural resources of the Village and the territory subject to its extraterritorial review by prescribing minimum requirements for safe construction site erosion control and storm water management.

(2) INTENT. This Chapter is intended to regulate construction site erosion and storm water runoff and to accomplish the following objectives:

- (a) Promote storm water management within the areas subject to this Chapter;
- (b) Minimize the effects of sedimentation, water pollution from nutrients, heavy metals, chemical and petroleum products and other contaminants, flooding, and thermal impacts to the areas subject to this Chapter;

- (c) Promote infiltration and groundwater recharge;
- (d) Protect functional values of natural water courses and wetlands;
- (e) Provide a set of performance standards that are consistent with the standards set forth by Dane County;
- (f) Ensure there will be no increase in temperature of storm water post-construction in order to protect cold water communities;
- (g) Ensure there will be no increase in the rate of surface water drainage from sites during or after construction; and
- (h) Protect public and private property from damage resulting from runoff or erosion.

24.05 DEFINITIONS. As used in this Chapter, the following terms are defined as follows:

- (1) "AFFECTED" or "AFFECT" means that a regulated activity:
 - (a) Has significantly caused or may cause negative impacts on water quality or on the use or maintenance of a property or business; or
 - (b) Has endangered or may endanger one's health, safety, or general welfare.
- (2) "AGRICULTURAL" means related to or used for the production of food or fiber, including, but not limited to, general farming, livestock and poultry enterprises, grazing, nurseries, horticulture, viticulture, truck farming, forestry, sod production, cranberry productions and wild crop harvesting. Clearing and grubbing of an area and structural development are not considered agricultural activities for purposes of this Chapter.
- (3) "AVERAGE ANNUAL RAINFALL" means measured precipitation in Madison, Wisconsin between March 12 and December 2, 1981.
- (4) "BANK EROSION" means the removal of soil or rock fragments along the banks or bed of a stream channel by high flow after rain events.
- (5) "BEST MANAGEMENT PRACTICE" means the most up-to-date practice, technique, or measure that is an effective, practical means of preventing or reducing soil erosion or water pollution, or both, from runoff both during and after land development activities. Such practices can include structural, vegetative or operational practices.
- (6) "COLD WATER COMMUNITY" means surface waters capable of supporting a community of cold water fish and other aquatic life, or serving as a spawning area for cold water fish species as provided in §NR 102.04(3)(a) Wisconsin Administrative Code).
- (7) "CONNECTED IMPERVIOUSNESS" means an impervious surface that is directly connected to a separate storm sewer or water of the state via an impervious flow path.

(8) "CONSTRUCTION SITE EROSION CONTROL" means a method of preventing or reducing soil erosion and sedimentation from land disturbing activity.

(9) "DEVELOPMENT" means any of the following activities:

(a) Structural development, including construction of a new building or other structure.

(b) Expansion or alteration of an existing structure that results in an increase in the ground surface dimensions of the building or structure;

(c) Land disturbing activities;

(d) Any activities regulated under Chapter 13; or

(e) Creation or expansion of impervious surfaces.

(10) "DIRECT CONDUITS TO GROUNDWATER" means wells, sinkholes, swalletts, fractured bedrock at the surface, mine shafts, non-metallic mines, tile inlets discharging to groundwater, quarries, or depressional groundwater recharge areas over shallow fractured bedrock.

(11) "EFFECTIVE INFILTRATION AREA" means the area of the infiltration system that is used to infiltrate runoff and does not include the area used for site access, berms or pretreatment.

(12) "EROSION" or "SOIL EROSION" means the detachment and movement of soil or rock fragments by water, wind, ice, or gravity.

(13) "EXCAVATION" means any act by which organic matter, earth, sand, gravel, rock or any other similar material is cut into, dug, quarried, uncovered, removed, displaced, relocated or bulldozed, and shall include the resulting conditions.

(14) "EXISTING DEVELOPMENT" means any building, structure, or other impervious areas existing prior to August 21, 2001.

(15) "FILL" means any act by which earth, sand, gravel, rock or any other material is deposited, placed, replaced, pushed, dumped, pulled, transported, or moved to a new location, other than by acts of nature, and shall include the resulting conditions.

(16) "FINANCIAL SECURITY INSTRUMENT" means a surety bond, performance bond, maintenance bond, irrevocable letter of credit, cash escrow, or similar guarantee submitted to the Village to assure that the requirements of this Chapter are carried out in compliance with an approved plan. The form of any required financial security shall be determined at the sole discretion of the Village, except as otherwise limited by State law.

(17) "GRADING" means the alteration of the elevation of a land surface by stripping, excavating, filling, or stockpiling of soil materials, or any combination of such activities, and shall include the land from which the material was taken and upon which it was placed.

(18) "GULLY EROSION" means a severe loss of soil caused by or resulting in concentrated surface water flow of sufficient velocity to create a defined flow channel.

(19) "HEAVILY DISTURBED SITE" means a site where an area of land is subjected to significant compaction due to the removal of vegetative cover or earthmoving activities, including filling.

(20) "HYDROLOGIC SOIL GROUP (HSG)" has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

(21) "IMPERVIOUS SURFACE" means any land cover preventing rain or melting snow from soaking into the ground, such as buildings and structures, roads, sidewalks, patios, driveways, and parking lots. For purposes of this Chapter, all road, driveway or parking surfaces, including gravel surfaces, shall be considered impervious, unless such surface cover is specifically designed to encourage infiltration and the design of the surface cover is approved by the Zoning Administrator.

(22) "IMPROVEMENT" means any structure, fixture, erection, construction, demolition, alteration, excavation, filling, grading, tiling, planting, clearing or landscaping that is built, erected, made, or done on or to a parcel for its permanent benefit.

(23) "INFILTRATION," for the purposes of this Chapter, refers to any precipitation that does not leave the site as surface runoff.

(24) "INFILTRATION SYSTEM" means a device or practice including but not limited to a basin, trench, rain garden or swale designed specifically to encourage infiltration, but does not include natural infiltration in pervious surfaces such as lawns, redirecting of rooftop downspouts onto lawns, or minimal infiltration from practices such as swales or road side channels designed for conveyance and pollutant removal only.

(25) "KARST FEATURE" means an area or surficial geologic feature subject to bedrock dissolution so that it is likely to provide a conduit to groundwater, and may include caves, enlarged fractures, mine features, exposed bedrock surfaces, sinkholes, springs, seeps or swallets.

(26) "LAND DISTURBING ACTIVITIES" or "LAND DISTURBANCE" means any land alterations or disturbance that may result in soil erosion, sedimentation, or change in runoff, including, but not limited to, tilling, removal of ground cover or other vegetation, grading, excavating, and filling of land.

(27) "LANDOWNER" or "OWNER OF PROPERTY" means any person having any pecuniary interest in lands regulated by this Chapter.

(28) "MAXIMUM EXTENT PRACTICABLE (MEP)" A level of implementing best management practices in order to achieve a performance standard specified in this chapter which takes into account the best available technology, cost effectiveness and other competing issues such as human safety and welfare, endangered and threatened resources, historic properties and geographic features. MEP allows flexibility in the way to

meet performance standards and may vary based on the performance standard and site conditions.

(29) "NON-EROSIVE VELOCITY" means a rate of flow of storm water runoff, usually measured in feet per second, that does not erode soils. Non-erosive velocities vary for individual sites due to differences in topography, soil type, and/or runoff rates.

(30) "PARCEL" means any defined area of land regardless of the manner of its legal description.

(31) "PEAK FLOW" means the maximum rate of flow of water at a given point in a channel, watercourse, or conduit resulting from the predetermined storm or flood measured in cubic feet per second (cfs).

(32) "PERMITTEE" means any person to whom a permit is issued under this Chapter.

(33) "PERSON" means any natural person, limited partnership, limited liability company, association, syndicate, partnership, corporation, trust, or any other legal entity.

(34) "PERVIOUS SURFACE" means any land cover other than gravel that permits rain or melting snow to soak into the ground.

(35) "PLAN" means an erosion control plan required by §24.12 or a storm water management plan required by §24.13.

(36) "POST-DEVELOPMENT" refers to the extent and distribution of land cover types anticipated to occur under conditions of full development of the submitted plan. This term is used to match pre- and post-development storm water peak flows as required by this Chapter.

(37) "PRE-DEVELOPMENT" refers to the extent and distribution of land cover types present before the initiation of the proposed land development activity, assuming that all land uses prior to land disturbing activity are in "good" condition as described in the Natural Resources Conservation Service Technical Release 55, "Urban Hydrology for Small Watersheds" (commonly known as TR-55). This term is used to match pre- and post-development storm water peak flows as required by this Chapter. In a situation where cumulative impervious surfaces created after August 21, 2001 exceeds the 20,000 sq. ft threshold, the pre-development conditions shall be those existing on August 21, 2001.

(38) "RECHARGE" means the portion of the average annual rainfall that infiltrates the soil and becomes groundwater. Recharge does not include evapotranspiration, transpiration, or runoff from the site.

(39) "REDEVELOPMENT" means any construction, alteration or improvement exceeding four thousand (4,000) square feet of land disturbance performed on sites where the existing site is predominantly developed as commercial, industrial, institutional or multifamily residential uses. Projects may include a mix of redevelopment and new impervious surfaces. New impervious surfaces added as a result of redevelopment are subject to §24.08.

(40) "REIMBURSEMENT AGREEMENT" means the signed agreement submitted with an application for an erosion control or stormwater management permit, in which the applicant acknowledges the Village policy to assign consultant costs to the applicant in order to cover the costs of reviewing development applications, and agrees to reimburse those expenses.

(41) "RUNOFF CURVE NUMBER (RCN)" has the meaning used in the runoff calculation methodology promulgated by the United States Natural Resources Conservation Service Engineering Field Manual for Conservation Practices.

(42) "SEDIMENT" means solid earth material, both mineral and organic, that is in suspension, is being transported, or has been moved from its site of origin by air, water, gravity or ice, and has come to rest on the earth's surface at a different site.

(43) "SEDIMENTATION" means the deposition of eroded soils at a site different from the one where the erosion occurred.

(44) "SHEET AND RILL EROSION" means a loss of soil caused by sheet flow or shallow concentrated flow, and is characterized by an absence of channeling or a relatively uniform loss across the exposed upper layer of the soil or shallow irregular scouring of the soil surface.

(45) "SITE" means the bounded area described in an erosion control plan or storm water management plan.

(46) "SLOPE" means the net vertical rise over horizontal run, expressed as a percentage that represents a relatively homogeneous surface incline or decline over the area disturbed.

(47) "SOIL LOSS RATE" means the rate, usually measured in tons per acre per year, at which soil is transported beyond the perimeter of a given control site and which occurs as a result of sheet and rill erosion. This term does not apply to soil movement resulting from concentrated flow such as gully or bank erosion.

(48) "STAY-ON" means the portion of the annual rainfall (inches) on the site that must be infiltrated on an annual basis to meet the infiltration goal.

(49) "STORM EVENTS" mean the precipitation amounts that are statistically predicted to occur over a 24-hour period having a specified recurrence interval for Dane County, Wisconsin. For example, one-year, two-year, 10-year and 100-year storm events mean the precipitation amounts that occur over a 24-hour period that have a predicted recurrence interval of one, two, 10 and 100 years, respectively.

(50) "STORM WATER" means the flow of water resulting from, and occurring during and immediately following, a rainfall, snow-melt or ice-melt event.

(51) "STORM SEWER" means a closed conduit for conveying collected storm water.

(52) "STORM WATER MANAGEMENT FACILITY" means any constructed element in a storm water drainage system.

(53) "STORM WATER DRAINAGE SYSTEM" means all of the facilities used for conducting storm water to, through or from a drainage area to the point of final outlet, including but not limited to, any of the following: conduits and appurtenant features, canals, channels, ditches, streams, culverts, reservoirs, detention basins or ponds, streets, storm sewers, and pumping stations.

(54) "STORM WATER MANAGEMENT" means any measures taken to permanently reduce or minimize the negative impacts of storm water runoff quantity and quality after land development activities.

(55) "STORM WATER RUNOFF"/ "RUNOFF" means the waters derived from rains falling or snow or ice melting within a drainage area, flowing over the surface of the ground and collected in channels, watercourses, or conduits.

(56) "STREET RECONSTRUCTION" means removal and replacement of the road subgrade, where existing storm water drainage facilities are modified.

(57) "STRUCTURE" means any human-made object with form, shape and utility, either permanently or temporarily attached to, placed upon, or set into the ground, stream bed, or lake bed.

(58) "UNNECESSARY HARDSHIP" means that circumstance where special conditions, not created by the current or past property owner(s), affect a particular property and make strict conformity with the regulations of this Chapter unnecessarily burdensome or unreasonable in light of the purposes of this Chapter.

(59) "WETLAND" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophytic vegetation and which has soils indicative of wet conditions. Wetlands include natural, mitigation and restored wetlands as designated by a qualified wetland professional.

(60) "ZONING ADMINISTRATOR" means the duly appointed Zoning Administrator for the Village or any professional consultant designated by the Zoning Administrator to carry out any of the analyses or other functions assigned to the Zoning Administrator under this chapter.

(61) "ZONING CODE" means Chapter 15 of the Village's Municipal Code adopted for the purpose of regulating the use of land.

24.06 SCOPE OF GEOGRAPHIC COVERAGE AND ADMINISTRATION.

(1) SCOPE OF GEOGRAPHIC COVERAGE. Unless specifically excluded herein, this Chapter applies to all land disturbing and land developing activities occurring within the corporate limits of the Village, and outside of such corporate limits to the extent authorized by any extraterritorial zoning ordinance administered by the Village or any intergovernmental agreement or cooperative plan under §66.0301 or §66.0307, Wis. Stats., respectively.

(2) Where the standards of this ordinance differ or conflict with applicable local land division, zoning or other applicable local ordinances or state regulations, the more restrictive standard shall apply.

24.07 EROSION CONTROL PERMITS – WHEN REQUIRED. Unless expressly exempted by §24.09, an erosion control permit under §24.11 shall be required for, and all construction site erosion control provisions of this chapter shall apply, to any of the following activities:

- (1) Any land disturbing activity in excess of 4,000 square feet.
- (2) Any land disturbing activity on a slope of greater than 12% regardless of the area of disturbance.
- (3) Any land disturbing activity involving the excavation or filling, or a combination of excavation and filling, of material in excess of 400 cubic yards.
- (4) Any land disturbing activity that disturbs more than 100 lineal feet of road ditch, grass waterway, or other land area where the surface drainage flows in a defined open channel, including the placement, repair or removal of any underground pipe, utility or other facility within the cross-section of the channel.
- (5) Any new public or private road or access drives longer than 125 feet.
- (6) Any development of a parcel subject to the requirements of, and regulated by, Chapter 13 of this Code.
- (7) Any land disturbing activity that disturbs less than 4,000 square feet of land, if the Zoning Administrator determines that such activity has a high risk of soil erosion or water pollution, or may adversely affect a lake, stream, creek, wetland area, or adjacent properties. Examples of activities with a high risk of soil erosion or water pollution may include, but are not limited to, land disturbance on erodible soil or disturbance adjacent to lakes, rivers, streams, creeks, or wetlands. All such determinations made by the Zoning Administrator shall be in writing, unless waived by the applicant.

24.08 STORM WATER MANAGEMENT PERMITS -- WHEN REQUIRED.

(1) Unless expressly exempted by §24.09, a storm water management permit under §24.11 shall be required for, and all storm water management provisions of this chapter shall apply to, any of the following activities:

- (a) Any development that results in the cumulative addition of 20,000 or more square feet of impervious surface to the site.
- (b) Any division of land for development that is subject to the provisions of Chapter 13 of the DeForest Municipal Code. Any final plat not approved on or before the effective date of this Chapter shall be subject to the storm water management performance standards prescribed by this Chapter, whether or not those standards are met by an approved preliminary plat.

(c) Redevelopment, as defined in Section 24.05 (42).

(d) Any other land development activities, including but not limited to redevelopment or alteration of existing buildings and other structures, that the Zoning Administrator determines may significantly increase downstream runoff volumes, flooding, soil erosion, water pollution, or property damage, or may adversely affect a lake, stream, creek, wetland area, or adjacent properties. All such determinations by the Zoning Administrator shall be made in writing unless waived by the applicant.

24.09 EXEMPTIONS AND CLARIFICATIONS.

(1) ALL REQUIREMENTS. The requirements of this Chapter shall not apply to any activity directly related to the planting, growing and harvesting of agricultural crops, unless the Zoning Administrator makes a written determination that the activity may result in undue erosion or sedimentation on any adjoining property, may adversely affect a lake, stream, creek, or wetland area, or may otherwise endanger the downstream property owners or their property.

(2) EROSION CONTROL. The following activities are exempt from the construction site erosion control provisions of §§24.07, 24.11 and 24.12:

(a) One- and two-family dwelling unit projects regulated under the Wisconsin Uniform Dwelling Code ("UDC"). Land disturbing activities in excess of one (1) acre, or not associated with the construction of a dwelling, are not exempt from this Chapter.

(b) Projects specifically exempted from local erosion control ordinances under state or federal statute. It is the responsibility of the landowner to demonstrate such exemption with documentation acceptable to the Local Approval Authority.

(c) Projects subject to an approved shoreland erosion control permit under Chapter 25.

(d) Agricultural development not subject to §24.08 (1) (b).

(e) Municipal road or county highway projects not otherwise exempted under §24.09(2)(b) are exempt from §24.13(2)(a)3. where all of the following conditions are met:

1. The purpose of the project is only to meet current state or federal design or safety guidelines;

2. All activity takes place within existing public right-of-way.

3. All other requirements of §24.13 are met; and

4. The project does not include the addition of any new driving lanes.

(f) Soil conservation, stream and adjacent wetland protection and restoration practices such as terraces, run-off diversion, grassed waterways, cattle and equipment crossings, cattle watering access, water control structures, dikes, ditch plugs, tile breaks and sediment removal catchments, when implemented according to plans and design approved

by the Natural Resources Conservation Service or US Fish and Wildlife Service or WDNR, or Dane County Land and Water Resources Department, provided that any such project involving land disturbing activity equal to or greater than one acre shall also comply with performance standards in 24.12 (3).

(3) INFILTRATION EXEMPTIONS. The following activities are exempt from the infiltration standards described in §24.13(2) (a) 6.

- (a) Redevelopment sites.
- (b) New development sites with less than 10% connected imperviousness based on complete post construction site development, provided the cumulative area of all impervious surface is less than one acre.
- (c) Agricultural development.
- (d) Areas where the infiltration rate of the soil is less than 0.6 inches/hour measured at the bottom of the proposed infiltration system where the soil layer is not easily moved or manipulated.
- (e) Parking areas, access roads and driveways less than 5,000 square feet serving commercial and industrial development.
- (f) Roads serving commercial, industrial, and institutional land uses, and all arterial streets as defined in Section 13.03(3).

24.10 PRE-APPLICATION CONFERENCE. An applicant for a permit issued under this Chapter may request a pre-application conference with Village staff. The purpose of a pre-application conference is to afford the applicant an opportunity to become familiar with the purpose and objectives of this Chapter, and to allow Village staff to become familiar with the proposed activity. This meeting is intended to assist an applicant in preparing general site plans and other submittals necessary to obtain a required permit under this Chapter. A pre-application conference does not guarantee that an erosion or storm water control plan will be approved or that a permit will be issued. Erosion and storm water control plans and permit applications must meet all applicable standards and criteria for approval.

(1) The Zoning Administrator may charge a fee to compensate for the cost of the preliminary review documents or meetings.

(2) The Zoning Administrator may require a floodplain determination for locations in proposed developments with one square mile or greater of tributary drainage.

24.11 EROSION CONTROL AND STORM WATER MANAGEMENT PERMITS AND ADMINISTRATION.

(1) START OF LAND DISTURBING ACTIVITY. No activity meeting the criteria described in §24.07 or 24.08 shall occur and no zoning permit may be issued, until the required erosion control and/or storm water management permit is issued by the Zoning Administrator.

(2) APPLICATION MATERIALS. The applicant shall provide all of the following as part of an application for a permit:

- (a) A completed application form including all of the following:
 1. The application must be signed by the landowner or include a notarized statement signed by the landowner authorizing the applicant to act as the landowner's agent and to submit the application on the landowner's behalf. Such notarized statement shall also clearly state that the landowner accepts responsibility for compliance with all requirements of this Chapter and the terms of any permit issued to the agent. By signing the application, the landowner and, whenever appropriate, the landowner's agent also expressly grant permission to any Zoning Administrator to enter the property at any reasonable time for the purpose of gathering any information or data needed to assist the Village in evaluating the application and its supporting documentation or enforcing any permit subsequently issued.
 2. If a landowner appoints an agent to submit an application pursuant to (2)(a)1., the landowner shall be bound by all of the requirements of this chapter and the terms of any permit issued to the agent.
- (b) Fees as established by the Village Board;
- (c) A signed reimbursement agreement;
- (d) If required by §24.07, an erosion control plan meeting all the standards of §24.12, or a simplified checklist if permitted by §24.12;
- (e) If required by §24.08, a storm water management plan meeting all of the standards of §24.13 and a draft maintenance agreement as described in §24.13(1)(l);
- (f) Copies of permits or permit applications or approvals required by any other governmental entity;
- (g) A proposed timetable and schedule for completion and installation of all elements of approved erosion control and storm water management plans, and a detailed schedule for completion of all construction on the project;
- (h) An estimate of the cost of completion and installation of all elements of the proposed erosion control and storm water management plans; and
- (i) Evidence of financial responsibility to complete the work proposed in the plan. As a condition of permit approval, the Village may require the filing of a financial security instrument sufficient to guarantee completion of the project. If the Village intends to accept dedication of the improvements after completion, the filing of such a security shall be mandatory. The financial security instrument, if required, shall remain in force until all of the work has been completed and inspected by the Zoning Administrator or for a period of one year after completion and inspection of the required improvements if the Village accepts dedication, unless the Village partially releases the guaranty under sub. (7)(e). Any required security shall be furnished on or before the date of actual issuance of the permit. It shall be

in an amount equal to 120% of the estimated actual cost of all of the required elements of the approved plan and shall specifically guarantee:

1. the installation and completion of all the required work specified in the approved plan and
2. the quality and workmanship of the work and improvements for one year following their acceptance by the Village, if the Village agrees to accept such dedication.

(j) The cost of all elements of the work, including quantities and unit prices, shall be furnished by the applicant and shall be verified by the Local Approval Authority.

(3) APPLICATION REVIEW / APPROVAL PROCESS.

(a) The Zoning Administrator shall verify that the permit application is complete under §24.11(2). The Zoning Administrator shall review the plan(s) for compliance with the standards identified in §§24.12 - 24.13.

(b) Within 30 business days after submission of a complete application, the Zoning Administrator shall either approve the submitted plan or notify the applicant of any deficiencies and provide an opportunity for correction of any deficiencies. Staff engaged in this review and approval process shall be certified where appropriate by the Wisconsin Department of Commerce credential and licensing for this purpose.

(c) Where installed storm water practices will be privately-owned, a maintenance agreement which describes the property by legal description, notifying future prospective purchasers of the existence of a storm water permit issued under this Chapter and applicable plan, timetables and potential liability imposed by §24.165(3) for failure to bring the property into compliance with this Chapter after notification, shall be recorded with the Dane County Register of Deeds prior to issuance of a final permit.

(d) Upon approval of the plan, and the recording of any legal title and maintenance agreement documents required under sub. (3)(d), the erosion control or storm water management permit shall be issued by the Zoning Administrator after the applicant has met all other requirements of this Chapter.

(4) PERMIT CONDITIONS. The following conditions apply to all permits issued under this Chapter:

(a) The erosion control elements of the plan shall be implemented prior to the start of any land development activity and shall be maintained over the duration of the project. Storm water management components of the plan shall be maintained in perpetuity. All elements of the plan shall be constructed or installed in full compliance with the plan as approved.

(b) The permittee shall be responsible for the successful implementation and completion of all elements of the approved plan and all costs associated with such project, including the review of proposed plans. The permittee shall be liable for all property

damage and costs incurred, including environmental restoration costs, resulting from noncompliance with an approved plan.

(c) As explicitly provided by the application form, an issued permit shall constitute express permission by the permittee and the landowner for any Zoning Administrator to enter the property for purposes of inspection under sub. (7) or corrective action under §24.165(3).

(d) All incidental mud-tracking off-site onto adjacent public thoroughfares shall be cleaned up and removed by the end of each working day using proper disposal methods.

(e) The permittee shall be responsible for maintaining all roads, road rights-of-way, streets, and storm water drainage facilities as specified in the approved plan until they are accepted and become the responsibility of the Village or other governmental entity.

(5) PLAN OR PERMIT AMENDMENTS. Any proposed modifications to approved plans, construction schedules or alterations to accepted sequencing of land disturbing site activities shall be approved by the Zoning Administrator prior to implementation of said changes.

(6) PERMIT DURATION.

(a) Unless the Zoning Administrator otherwise stipulates, an approved permit shall be valid for a period of 12 months from the date of issuance and all work must be completed prior to the expiration date of the permit. The Zoning Administrator may extend the expiration date of the permit upon finding that such an extension will not cause an increase in erosion, sedimentation, or runoff beyond the amounts approved in the original permit. The Zoning Administrator may require modifications to the plan to prevent any increase in sedimentation, erosion, or runoff resulting from extension of the permit duration.

(b) Permit time extension requests must be made in writing and received by the Zoning Administrator at least 30 days prior to the expiration of the permit. A request for a permit time extension shall include a statement explaining the need for a time extension and specify any necessary changes to the plan.

(c) The Zoning Administrator may revoke any permit granted under this Chapter if he/she finds that the permittee:

1. has misrepresented any material fact in the permit application or plan,
2. has failed to comply with the provisions of this Chapter,
3. has failed to comply with the plan as originally approved or as subsequently modified, or
4. has violated any of the other terms of the permit imposed as a condition of its approval.

(d) A copy of the approved permit and erosion control plan shall be kept on the project site, in a place readily accessible to contractors, engineers, Zoning Administrator inspection staff and other authorized personnel.

(7) INSPECTIONS, SECURITY, ACCEPTANCE AND MAINTENANCE.

(a) Entry Permitted. A permit issued under this section shall constitute permission by the permittee and landowner for any Zoning Administrator to enter the property and inspect any phase of the permitted activity, including any construction or installation work, to confirm its compliance with the approved plan and the requirements of this Chapter.

(b) Erosion Control and Storm Water Management Inspections. The Zoning Administrator or its designated representative shall perform inspections during the construction or installation phase of any permitted activity to determine the permittee's compliance with the approved plan and the requirements of this Chapter. Inspections shall be made approximately bi-weekly, or more frequently as determined by the Zoning Administrator. The Permittee shall be responsible for the costs of the inspections subject to the terms of the Reimbursement Agreement. The permittee shall inspect the site weekly, and prior to every forecasted rain fall of $\frac{1}{2}$ inch or greater.

(c) Final Inspection – Erosion Control. Within 10 days after installation of all practices in an erosion control plan and achievement of soil stabilization, the permittee shall notify the Zoning Administrator of final completion of the erosion control permit requirements. The Zoning Administrator shall inspect the property within 10 days of notification to verify compliance with the erosion control plan.

(d) Final Inspection - Storm Water Management. Within 30 days after the installation of all of the storm water management measures specified in an approved plan, the permittee shall notify the Zoning Administrator of such completed installation and submit record drawings documenting the construction. The person who designed the storm water management measures for the permittee shall submit a certification that the constructed storm water management practices and conveyance systems substantially comply with the specifications included in the approved plan. At a minimum, the certification shall include a set of record drawings comparing the approved storm water management measures with those constructed. The permittee shall submit any other information as required by the Zoning Administrator within 10 days after such request. A Zoning Administrator shall then inspect the property to verify compliance with the plan within 10 days after such notification or within 10 days after all additionally requested information has been submitted.

(e) Acceptance of Improvements.

1. The Village Director of Public Services may accept dedication of all storm water management measures and conveyance facilities and systems after fully constructed, inspected, and approved. Unless otherwise provided in a written agreement between the Village and the permittee, no detention pond or other permanent man-made facility designed for controlling stormwater from more than one lot shall be accepted until at least 80 percent of the lots in the development served by such facilities have been sold and a

professional engineer has certified to the Village that all of the following conditions are met with respect to the facility:

- a. The facility is functioning properly in accordance with the plans and specifications approved by the Village.
 - b. Any required plantings are adequate, well-established, and reasonably free of invasive species to the maximum extent practical.
 - c. Any necessary maintenance, including removal of construction sediment, has been properly performed.
2. The Village's acceptance of such improvements shall be conditioned on the permittee filing lien waivers and appropriate affidavits as evidence that no claims, actions, or demands for damages arising out of or in any way related to the installation of the storm water management measures and conveyance systems exist and that no monies are owed to any contractor, surveyor, mechanic, subcontractor, supplier, or laborer in connection with the installation.
 3. The Village may, at its option, require the landowner to retain ownership of all storm water management measures and conveyance facilities and systems and to maintain them after fully constructed, inspected, and approved. Such improvements, however, shall be subject to periodic Village inspections and, as necessary, Village orders for repairs. In the event the owner shall fail to comply with any order issued by the Village for such repairs, the Village shall have the option to complete the repairs and collect the full cost thereof from the owner by levy of a special charge against the property.

(f) Security.

Partial Release. Upon completion and approval of any improvement, the Village may release a portion of any furnished security if:

- a. A written application for a partial release is filed with the Village Clerk; and
- b. The remaining security will be sufficient to cover any potential corrective work required during the guaranty as determined by the Zoning Administrator. Under no circumstances shall more than 90% of the furnished security be released before the expiration of the guaranty period.

(g) *Guaranty Period.* The security furnished by the permittee, whether subject to a partial release or not, shall, except to the extent prohibited by law, be retained by the Village for a period of one year following the Village's acceptance of the required improvements to guarantee them against defects in workmanship and materials. If any

defect appears during the guaranty period, the permittee shall, at his or her expense, install replacements or perform acceptable repairs. If the permittee fails to make repairs, the Village may do so and may charge the cost thereof to the permittee and deduct such costs from any security on deposit. Unless defects have appeared and have not been repaired, the Village shall release the security to the permittee upon expiration of the one-year guaranty period.

(8) PERMIT TRANSFERS.

(a) Definition. For purposes of this sub. (b), the term "landowner" includes both the current owner of property subject to a permit issued under this section and the current permittee if the permit was issued to an agent of the property owner, unless the context or subject matter clearly indicates otherwise.

(b) Notification of Plan and Transfer. If a landowner intends to transfer ownership, possession or control of property subject to an approved plan, the landowner shall provide a copy of the plan to the intended successor in interest, inform the intended successor in interest in writing of the current status of compliance with the plan, and notify the Zoning Administrator in writing of the intended transfer. Until such intended transfer is effectuated, the landowner shall continue to be responsible for controlling soil erosion and runoff and complying with the requirements of the approved plan and the standards provided in this Chapter.

(c) Method of Transfer.

1. If a landowner transfers ownership, possession, or control of property subject to an approved plan but prior to final implementation of that plan, the outstanding permit shall be deemed null and void, all land development activity shall cease, and the property shall be restored to its original, pre-land development condition subject to the requirements of this Chapter, including the controlling of soil erosion and runoff, unless any of the following conditions is met prior to the actual date of transfer:
 - a. Subject to the requirements of sub. (3) and (4), the transferee files and secures approval of a new permit and plan;
 - b. Subject to Subparagraph 2, the Zoning Administrator agrees to name the transferee as an additional permittee on the outstanding permit and allows the transferee to complete that portion of the approved plan regulating soil erosion and runoff on the transferee's property. As a condition of naming the transferee on the outstanding permit, the Zoning Administrator may require that the transferee or the landowner furnish an irrevocable letter of credit, bond or certified check in an amount equal to 120% of the estimated cost to complete the work proposed in the approved plan as determined by the Zoning Administrator unless security posted by the current permittee extends to the obligations of the transferee by its terms. If an approved plan is not completed as proposed, the Village may use the funds available through the letter of credit, bond or certified check provided by the

transferee or landowner to complete the remaining work to achieve plan compliance.

2. Even if a transferee is named as additional permittee under Subparagraph 1.b, the Village shall continue to deem the landowner as being equally responsible for controlling soil erosion and runoff and complying with the requirements of the approved plan and the standards provided in this Chapter until the plan work is completed on the transferee's property.

24.12 EROSION CONTROL PLAN REQUIREMENTS.

(1) PLAN MATERIALS. Erosion control plans required under §24.07 may include the consideration of the cooperative efforts of adjoining landowners to control the transport of sediment, and except as specifically exempted in sub. (2), shall include at a minimum the following information:

- (a) Property lines, lot dimensions, and limits of disturbed area;
- (b) Limits and area of impervious area, including buildings. Include all public and private roads, interior roads, driveways, parking lots, and indicate type of paving and surface material;
- (c) All natural and artificial water features including, but not limited to, lakes, ponds, streams (including intermittent streams), and ditches; and areas of natural woodland or prairie. The plan must show ordinary high-water marks of all navigable waters, 100-year flood elevations, a WDNR Wetland Inventory map of the site and any delineated wetland boundaries. A certified flood zone determination and/or wetland delineation may be required at the applicant's expense;
- (d) Cross sections of and profiles of channels, swales, and road ditches;
- (e) Culvert and storm sewer sizes;
- (f) Direction of flow of runoff;
- (g) Watershed size for each drainage area;
- (h) Design discharge for ditches and structural measures;
- (i) Runoff velocities;
- (j) Fertilizer and seeding types, rates and recommendations;
- (k) Time schedules for stabilization of ditches and slopes;
- (l) Description of methods by which sites are to be developed and a detailed land disturbance schedule including time schedules for stabilization of ditches and slopes;

(m) Provision for sequential steps mitigating erosive effect of land disturbing activities to be followed in appropriate order and in a manner consistent with accepted erosion control methodology suitable to proposed sites and amenable to prompt re-vegetation, including runoff calculations as appropriate;

(n) Provisions to prevent mud-tracking off-site onto public thoroughfares during the construction period; and

(o) Provisions to disconnect impervious surfaces, where feasible;

(p) Provisions to prevent sediment delivery to, and accumulation in, any proposed or existing stormwater conveyance systems;

(q) Copies of permits or permit applications required by any other unit of government or agency;

(r) Existing and proposed elevations (referenced to the National Geodetic Vertical Datum of 1988) and existing and proposed contours in the area, where deemed necessary;

(s) Calculations demonstrating that the erosion control performance standards under §24.12(3) will be met;

(t) Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features of the site.

(2) SIMPLIFIED PLAN CHECKLIST.

(a) Applicants may submit erosion control proposals using simplified checklists of standard erosion control practices on a standard form approved by the Village, wherever all of the following conditions exist:

1. The site does not exceed 20,000 square feet in area;
2. The site is not adjacent to and does not drain directly into any sensitive areas nearby, such as streams, lakes, or wetlands; and
3. Soil on slopes steeper than 6%, will be disturbed for less than 15 days.

(b) Each submitted simplified plan checklist shall be reviewed by the Zoning Administrator for completeness and accuracy.

(3) EROSION CONTROL PERFORMANCE STANDARDS.

(a) Generally. The proposed design, suggested location, and phased implementation of the erosion control measures specified in a plan shall be designed, engineered and ultimately implemented to achieve those results as provided under Paragraph (b). The Zoning Administrator shall evaluate the plan measures to determine that

they follow currently accepted design criteria and the technical standards specified under §24.15 and that they will achieve the required results under Paragraph (b).

(b) Erosion Control Performance Standards. The erosion control plan measures shall at a minimum achieve the following results:

1. Prevent gully and bank erosion;
2. Limit total off-site permissible annual aggregate soil loss for exposed areas resulting from sheet and rill erosion to an annual, cumulative soil loss rate not to exceed 7.5 tons per acre.
3. Discharges from new construction sites must have a stable outlet capable of carrying designed flow as required in §24.13(2)(a)4., at a non-erosive velocity. Outlet design must consider flow capacity and flow duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or waterbody.

(c) A plan's compliance with the requirements specified under Paragraph (b) shall be determined by using the U.S. Natural Resources Conservation Service Technical Guide or another commonly accepted soil erosion methodology approved by the Dane County Conservationist that considers season of year, site characteristics, soil erodibility, and slope.

(d) Erosion control measures for plan approval need not attempt to regulate soil transportation within the boundaries of the applicant's site.

(e) Except as authorized in this paragraph, the topography within five feet of any property line at the commencement of any development shall remain unchanged.

1. When land disturbing activities associated with development occur within 5 feet of any property line, finished grades in that area shall be restored to the topography in existence before the land disturbing activities began, except that a positive slope is allowed within five feet of a property line where necessary to provide proper drainage away from a one or two family residence.
2. The established grade of the adjoining property shall determine the finished grade at the property line for any development. The owner of the property under development accepts responsibility for the established grade at the property line and the topography within five feet of the property line. The Zoning Administrator may require detailed site grading plans of existing and proposed conditions to be submitted prior to any land disturbing activities.

(f) Existing drainage ways and drainage easements along property lines shall be maintained including, but not limited to, natural watercourses and stormwater management areas shown on subdivision plats and certified survey maps.

(g) Development in floodplains districts requiring fill to comply with floodplain ordinance may be exempt from this subsection.

(h) Upon written application, the Zoning Administrator may authorize exceptions resulting in changes to the existing topography at and within five feet of any property line that would promote the purposes stated in this ordinance. An exception authorized under this subsection may not direct additional stormwater runoff toward adjacent properties. Proposed exceptions may include, but not limited to, retaining walls, berms and other structures, and other changes to existing grade at and within five feet of a property line. The Zoning Administrator may require the submittal of detailed site grading plans of existing and proposed conditions including, but not limited to, detailed topographical information of the subject and adjoining properties, before land disturbing activities commence.

24.13 STORM WATER MANAGEMENT PLAN REQUIREMENTS.

(1) PLAN MATERIALS. Storm water management plans shall satisfy all of the requirements in sub. (2), and shall provide at a minimum the following information:

(a) A table of contents / transmittal which identifies the location of the submitted information.

(b) Storm Water Management Plans must be sealed/stamped by a licensed professional engineer (P.E.).

(c) A narrative describing the proposed project, including an implementation schedule for the planned practices.

(d) Identification of the entity responsible for long-term maintenance of the project.

(e) A map showing the drainage areas for each project site under pre-development land conditions and a map showing the drainage areas for each project site under post-development land conditions.

(f) A summary of runoff peak flow rate calculations, by watershed area, including:

1. Pre-development peak flow rates for the required design storms;
2. Post-development peak flow rates with no detention for the required design storms;
3. Post-development peak flow rates with detention for the required design storms;
4. Assumed runoff curve numbers (RCNs) for pre-development and post-development conditions; and
5. Time of Concentration (TC) used in calculations.

(g) Electronic Models shall be submitted along with summary calculations.

(h) A complete site plan and specifications, signed by the person who designed the plan. All plans shall be drawn to an easily legible scale, shall be clearly labeled, and shall include, at a minimum, all of the following information:

1. Property lines and lot dimensions;
2. All buildings and outdoor uses, existing and proposed, including all dimensions and setbacks;
3. All public and private roads, interior roads, driveways and parking lots. The traffic patterns and types of paving and surfacing material shall be labeled;
4. All natural and artificial water features, including, but not limited to, lakes, ponds, streams (including intermittent streams), creeks, and ditches. The ordinary high water marks of all navigable waters, the 100-year flood elevations, WDNR Wetland Inventory Map of the site and the delineated wetland boundaries, if any, shall be shown. If not available, an appropriate flood zone determination or wetland delineation, or both, shall be prepared by the applicant at his or her expense;
5. Depth to bedrock;
6. Depth to seasonal high water table;
7. The extent and location of all soil types as described in the Dane County Soil Survey, slopes exceeding 12%, and areas of woodland or prairie;
8. Existing and proposed elevations (referenced to the North American Vertical Datum of 1988, where available) and existing and proposed contours in the area requiring a grading and filling permit;
9. Elevations, sections, profiles, and details as needed to describe all natural and artificial features of the project;
10. Soil erosion control and overland runoff control measures, including runoff calculations as appropriate;
11. Detailed construction schedule;
12. Copies of permits or permit applications required by any other governmental entity or agency;
13. Any other information necessary to reasonably determine the location, nature and condition of any physical or environmental features;
14. Location of all storm water management practices;
15. All existing and proposed drainage features;
16. The location and area of all proposed impervious surfaces; and
17. The limits and area of the disturbed area.

(i) Calculations demonstrating that the storm water management performance standards under §24.13 (2) will be met;

(j) A description of the methods to control oil and grease or written justification for not providing such control;

(k) Engineered designs for all structural management practices;

(l) If required under sub. (2)(a)7, a description and plans to control the temperature of storm water runoff;

(m) A maintenance plan and schedule for all permanent storm water management measures as required in §24.11(3)(d).

(n) A summary of infiltration calculations that include the following:

1. Predevelopment infiltration volume.
2. Calculated infiltration volume goal.
3. Achieved post development infiltration volume.

(2) STORM WATER MANAGEMENT PERFORMANCE STANDARDS.

(a) Generally. The proposed design, suggested location, and phased implementation of the storm water management measures specified in a plan should be designed, engineered and ultimately implemented to achieve the results as provided under Paragraph (b). The Zoning Administrator shall evaluate the plan measures to determine that they follow currently accepted design criteria and the technical standards specified under §24.15 and that they will achieve the required results under Paragraph (b).

1. *Sediment Control.*

- a. For new development, the applicant shall design the storm water management measures to retain soil particles greater than 5 microns on the site (80% reduction) resulting from a one-year 24-hour storm event (2.5 inches over 24-hour duration), according to approved procedures, and assuming no sediment re-suspension. This requires the use of a continuous model such as SLAMM, P8 or equivalent, and the use of approved grain size distribution curves and rainfall data. These files are managed and maintained by the Wisconsin Department of Natural Resources and are available on its website.
- b. For redevelopment resulting in exposed surface parking lots and associated traffic areas, the applicant shall design the storm water management measures to retain soil particles greater than 20 microns on the entire site (40% reduction) resulting from a one-year 24-hour storm event, according to approved procedures, and assuming no sediment re-suspension. Under no circumstances shall the-existing sediment control level or trapping efficiency of the site be reduced as a result of the

redevelopment. This requires the use of a continuous model such as SLAMM, P8 or equivalent, and the use of approved grain size distribution curves and rainfall data. These files are managed and maintained by the Wisconsin Department of Natural Resources and are available on its website.

2. *Oil and Grease Control.* For all storm water management plans for commercial or industrial developments and all other uses where the potential for pollution by oil or grease, or both, exists, the applicant shall design the storm water management measures so that the first 0.5 inches of runoff will be treated using the best oil and grease removal technology available. The oil and grease treatment requirement may be waived by the Village if the applicant can demonstrate that installation of such practices is not necessary.
3. *Runoff Curve Number.* The maximum runoff curve number (RCN) used in such calculations shall be those described in Table 1. The TR-55 specified curve numbers for other land uses shall be used. Heavily disturbed sites will be lowered one permeability class for hydrologic calculations. Lightly disturbed areas require no modifications. If practices have been implemented to restore soil structure to pre-developed conditions, no modification to the permeability class is required.

Table 1. Maximum Predeveloped Runoff Curve Numbers

Runoff Curve Number	<u>Hydrologic Soil Group*</u>			
	A	B	C	D
Woodland	30	55	70	77
Grassland	39	61	71	78
Cropland	51	68	78	83

*When dual HSG are specified, the drained condition shall be assumed.

4. *Runoff Control Rate – Design Standards.* Except for redevelopment projects, all stormwater facilities shall be designed, installed and maintained to effectively accomplish the following:
 - a. Maintain predevelopment peak runoff rates for the 1-year, 24-hour storm event (2.49 inches over 24-hour duration using the NRCS MSE4 storm distribution).
 - b. Maintain predevelopment peak runoff rates for the 2-year, 24-hour storm event (2.84 inches over 24-hour duration using the NRCS MSE4 storm distribution).
 - c. Maintain predevelopment peak runoff rates for the 10-year, 24-hour storm event (4.09 inches over 24-hour duration using the NRCS MSE4 storm distribution).

- d. Maintain predevelopment peak runoff rates for the 100-year, 24-hour storm event (6.66 inches over 24-hour duration using the NRCS MSE4 storm distribution).
- 5. Outlets. Discharges from land development sites must have a stable outlet capable of carrying designed flow as required in sub. (2)(a)4, at a non-erosive velocity. Outlet design must consider flow capacity and duration. This requirement applies to both the site outlet and the ultimate outlet to stormwater conveyance or water body.
- 6. Stay-On (Infiltration).
 - a. For residential and nonresidential developments, design practices to infiltrate sufficient runoff volume so that post-development stay-on (infiltration) volume is 90% of the pre-developed infiltration volume, based upon average annual rainfall series for Madison, WI.
 - b. The maximum predevelopment RCN used in such calculations shall be those stated in Table 1.
 - c. If applicable, when designing infiltration systems, more than 2% of the site is required to be used as effective infiltration area, the applicant may alternately design infiltration systems and pervious surfaces to meet or exceed the annual pre-development recharge rate, as determined under the Wisconsin Geological and Natural History Survey's 2009 report, *Groundwater Recharge in Dane County, Estimated by GIS-Based Water Balanced Model* or subsequent updates to this report, or by a site specific analysis using appropriate techniques. If this alternative design approach is taken, at least 2% of the site must be used for infiltration.
 - d. Pre-treatment. Before infiltrating runoff, pre-treatment shall be required for parking lot runoff and for runoff from new road construction in commercial, industrial and institutional areas that will enter an infiltration system. The pre-treatment shall conform to the design standards in §24.15 in addition to protecting the infiltration system from clogging prior to scheduled maintenance and protect groundwater quality.
 - e. Prohibitions. Infiltration systems may not be installed in any of the following areas:
 - i. Areas associated with tier 1 industrial facilities identified in the Wis. Admin. Code NR 216.21(2)(a), including storage, loading, rooftop and parking.
 - ii. Storage and loading areas of tier 2 industrial facilities identified in S. NR 216.21(2)(b) Wis. Admin. Code.
 - iii. Fueling and vehicle maintenance areas.

- iv. Areas within 1,000 feet up gradient or within 100 feet down gradient of direct conduits to groundwater.
- v. Separation distances. Infiltration practices shall be located so that the characteristics of the soil and the separation distance between the bottom of the infiltration system and the elevation of seasonal high groundwater or top of bedrock are in accordance with Table 2, below:

Table 2. Separation Distances and Soil Characteristics		
Source Area	Separation Distance	Soil Characteristics
Industrial, Commercial, Institutional Parking Lots and Roads	5 Feet of More	Filtering Layer
Residential Arterial Roads	5 Feet of More	Filtering Layer
Roofs Draining to Subsurface Infiltration Practices	1 Foot or More	Native or Engineered Soil with Particles Finer than Coarse Sand
Roofs Draining to Surface Infiltration Practices	Not Applicable	Not Applicable
All Other Impervious Source Areas	3 Feet of More	Filtering Layer

- vi. Areas with runoff from industrial, commercial and institutional parking lots and roads and residential arterial roads with less than five feet separation distance from the bottom of the infiltration system to the elevation of seasonal high groundwater or the top of bedrock.
- vii. Areas within 400 feet of a community water system well for runoff infiltrated from commercial, industrial and institutional land uses or regional devices for residential development.
- viii. Areas where contaminants are present in the soil through which infiltration will occur.
- ix. Areas where high groundwater levels exist shall be evaluated to ensure that Volume Control measures do not increase the occurrence of groundwater induced flooding on new or existing developments.

- f. Alternative use of runoff. The use of Low Impact Development Techniques is encouraged. Where alternate uses of runoff are employed, such as for toilet flushing, laundry or irrigation, rain barrels, cisterns, etc, such alternate use shall be given equal credit toward the infiltration volume required by this section.
- g. Minimizing groundwater pollution. As required by ch. NR 151, Wis. Admin. Code, infiltration systems designed in accordance with this section shall, to the extent technically and economically feasible, minimize the level of pollutants infiltrating to groundwater and shall maintain compliance with the preventive action limit at a point of standards application in accordance with ch. NR 140, Wis. Admin. Code. However, if site-specific information indicates that compliance with the preventive action limit is not achievable, the infiltration system may not be installed or shall be modified to prevent infiltration to the maximum extent practicable.
- h. Deep tilling or similar practices shall be implemented to restore soil structure to pre-developed conditions. The depth of tilling shall be at least 2 inches below the hardpan layer or compacted zone, as determined by a soil probe or soil penetrometer, up to a maximum depth of 36 inches. The maximum spacing of the cuts is 5 feet.
- i. Basement Flooding. Where basements are planned within the proposed development, soil borings shall be completed to determine seasonal high groundwater elevations. Soil profiles shall be evaluated by a Certified Soil Tester or equivalent. Borings shall be completed at intervals sufficient to provide an accurate representation of the site being developed. Boring locations and intervals are subject to review by the Village on a site-by-site basis. All sites or lots proposed in areas that are anticipated to have Hydric Soils shall be evaluated. Basement elevations shall be set a minimum of 2-feet above the seasonal high groundwater elevation as determined by the soil borings. The soil evaluations shall be incorporated into the required Storm Water Management Report.

7. Thermal Control.

- a. The storm water management plan shall include provisions implementing best management practices to reduce the temperature of runoff for sites located within the watershed of the following rivers or streams:
 - i. Any Cold Water Community and any Class I, Class II, and Class III Trout Streams identified in "Wisconsin Trout Stream," DNR publication PUB-FH-806-2002 or its successor or.
 - ii. Rivers or streams proposed by the Wisconsin Department of Natural Resources as Cold Water Communities and Class I, II, and III Trout Streams.

- b. A current list and maps of affected watersheds shall be available for reference at the office of the Zoning Administrator.
8. WETLANDS. Wetlands shall not be used to meet any of the requirements of this Chapter.
9. INFILTRATION. Infiltration of storm water to reduce the volume of runoff will be encouraged where technically feasible through the most current Best Management Practices. If measurable infiltration can be demonstrated, the reduced runoff volume may be taken into account when designing practices to meet the peak flow and pollution control requirements of this Chapter.
 - (b) Stormwater Management Goals. The following standards shall be met whenever technically feasible as determined by the Zoning Administrator, and the plans shall include a proposed design, location and implementation of practices to meet these goals:

1. For existing development, design practices shall retain soil particles greater than 40 microns,(20% reduction) on the Site resulting from a one year, 24-hour storm event in accordance with WDNR technical standards, and assuming no sediment resuspension.
2. For street reconstruction the design shall retain soil particles greater than 20 microns, (40% reduction) resulting from a one-year, 24-hour storm event in accordance with WDNR technical standards, and assuming no sediment resuspension.

24.14 OFF-SITE STORM WATER MANAGEMENT

(1) OFF-SITE STORM WATER MANAGEMENT FACILITY IN PLACE. Off-site storm water management is allowed, provided that all of the following conditions for the off-site facility are met:

- (a) The facility is in place;
- (b) The facility is designed and adequately sized to provide a level of storm water control that at least meets the standards established by this Chapter.
- (c) The facility has a legally obligated entity responsible for its long-term operation and maintenance.

(2) OFF-SITE STORM WATER MANAGEMENT FACILITY NOT YET IN PLACE. At the discretion of the Zoning Administrator, new development will be allowed where the off-site storm water management facility is not yet in place provided that all of the following conditions are met:

- (a) A temporary on-site storm water management facility is constructed meeting the requirements of §24.13(2), except §24.13(2)(b)4.iii.

(b) The permanent off-site storm water management facility is constructed within one year of completing the new development.

(c) The temporary on-site storm water management facility is maintained until the permanent off-site storm water management facility is completed.

24.15 TECHNICAL STANDARDS AND SPECIFICATIONS. The design of all best management practices required to meet the requirements of this Chapter shall comply with the following technical standards:

(1) Natural Resources Conservation Service's "Wisconsin Field Office Technical Guide, Chapter 4" or its successor.

(2) Applicable construction or erosion control standards by the Wisconsin Department of Natural Resources.

(3) Wisconsin Department of Natural Resources' "Wisconsin Storm Water Manual" or its successor.

(4) Wisconsin Department of Natural Resources' "Wet Detention Basin Conservation Practice Standard Code 1001" or its successor.

(5) The "Dane County Erosion Control and Storm Water Management Manual" or any other technical methodology approved by the Dane County Conservationist.

(6) The use of Low Impact Development (LID) techniques is encouraged in the design of the infrastructure and site improvements. Variations to the infrastructure design standards will be considered in incorporating LID techniques into the storm water BMP design.

24.16 APPEALS AND VARIANCES.

(1) APPEALS.

(a) Appeal By. Any person aggrieved or any officer, department, or board of the Village affected by the order, requirement, decision or determination made under this Chapter may appeal such action to the Village Board of Zoning Appeals. For the purpose of this Chapter, an aggrieved person shall include the applicant and, if different, the owner of the land subject to this Chapter.

(b) When. An appeal shall be filed with the Village Clerk within 30 days after the date of the challenged decision, determination or order. A nonrefundable filing fee in an amount specified in the Village's current fee schedule resolution shall be paid at the same time the appeal is filed. The appeal shall be in writing and shall set forth the specific grounds for the appeal. A copy of the appeal shall also be filed with the Village officer who made or issued the challenged decision, determination, or order. Within 10 days after an appeal is filed, the Zoning Administrator shall file with the Village Clerk the record upon which the action appealed from was taken.

(c) Procedure. After an appeal is filed, the Village Board shall fix a time for hearing the appeal and shall cause to be published a class 2 notice of the hearing under Wis. Stats. Ch. 985. Personal notice of the hearing shall also be given to all parties in interest. Any party may appear in person or by agent or attorney at the hearing. The Village Board shall decide the appeal within a reasonable time after the hearing.

(d) Decision. The Board may, in conformity with the provisions of this Chapter, reverse or affirm, wholly or partly, or modify the order, requirement, decision or determination appealed from and may make such order, requirement, decision or determination as necessary, and shall have all of the powers of the officer from whom the appeal is taken. The concurring vote of four members of the Board shall be required to reverse the order, requirement, decision or determination.

(2) VARIANCES.

(a) Standards. An applicant may include in an application for a permit a request for a variance from the requirements of §24.12 or §24.13. No variance shall be granted unless the applicant demonstrates, and the Board of Zoning Appeals finds, that:

1. All of the following conditions are satisfied:
 - a. Enforcement of the standards set forth in this Chapter will result in unnecessary hardship to the landowner or the permittee if not the same.
 - b. The hardship is due to exceptional physical conditions unique to the property.
 - c. The granting of the variance will not adversely affect the public health, safety or welfare, nor be contrary to the spirit, purpose and intent of this Chapter.
 - d. The net cumulative effect of the variance will not affect downstream conditions; or
2. Existing regional facilities are shown to meet the performance standards of this Chapter.

(b) If the conditions set forth in par. (a) are met, a variance may be granted only to the minimum extent necessary to afford relief from the unnecessary hardship, with primary consideration to water quality.

- (c) A variance from the provisions of §24.13(2)(a) and (b) may only be granted if:
1. The applicant has met the requirements of par. (a); and
 2. The applicant will be denied all reasonable and beneficial use of the property if the variance is denied.

24.165 STOP WORK ORDER.

(1) Whenever the Zoning Administrator finds any noncompliance with the provisions of this ordinance, the Zoning Administrator shall attempt to communicate with the owner or person performing the work to obtain immediate and voluntary compliance if such person is readily available. If the owner or person performing the work is not readily available, that person refuses to voluntarily comply immediately or the noncompliance presents an immediate danger or will cause or threatens to cause bodily injury or damage to off-site property including but not limited to, off-site runoff, the Zoning Administrator shall post in a conspicuous place on the premises and contact the owner by electronic mail from the email provided by on the application, a stop work order which shall cause all activity not necessary to correct the noncompliance to cease until noncompliance is corrected.

(2) The stop work order shall provide the following information:

- (a) Date of issuance;
- (b) Project name, location, and permit number;
- (c) Reason for posting; and
- (d) Signature of inspector posting the order.

(3) Unauthorized removal of a stop work order from the premises shall be a violation of this ordinance.

(4) In addition to posting a stop work order, the Zoning Administrator shall provide notification to the owner or contractor by personal service, written notice by certified mail, electronic mail, or facsimile transmission.

(5) The permittee, landowner and contractor shall have 24 hours from time of notification by the Local Approval Authority to correct any noncompliance with the plan when notification is by either personal communication to the owner or contractor or their respective agents, or written notice sent by certified mail to owner or contractor.

(6) If the noncompliance is not corrected within the time period specified in sub. (5), the permittee and landowner authorize the Zoning Administrator to take any action, to perform any work, or commence any operations necessary to correct noncompliance on the subject property where notice of noncompliance has been issued to bring the property into conformance with plan requirements. The permittee and landowner further consent to reimburse the authority for the total costs and expenses of the corrective actions. Reimbursement may be collected as a special charge upon the property for current services rendered as provided by law.

(7) If the permittee has filed an appeal under §24.16(1)(a) prior to the expiration of the time for compliance under sub. (5), the Zoning Administrator may take action, perform work or correct conditions only to the extent necessary to protect against an imminent hazard or condition that will cause or threatens to cause personal injury or damage to off-site property.

24.17 PERMIT FEES.

(1) PERMIT FEES. For an erosion control permit or a storm water control permit, a nonrefundable application fee shall be paid by the applicant in an amount as specified in the Village's current fee schedule. The fee schedule can be obtained through the Zoning Administrator, or online on the Village website. If the permit is granted, no additional fee is required, except as provided under sub. (2).

(2) OTHER FEES. In addition to the fees specified under sub. (1), the applicant for an erosion control permit or a storm water control permit shall reimburse the Village for all administrative, engineering, inspection, consulting, and legal fees incurred by the Village in connection with the entire permit and installation process under §24.11. To guarantee payment of such fees, the applicant shall deposit such sum as listed in the Village's current fee schedule ordinance with the Village at the time the application is submitted. If all of the expenses incurred by the Village are reimbursed timely, the fee deposit shall be refunded within 30 days after the application is rejected or a permit is issued. If the applicant fails to reimburse the Village within 30 days of any billing, the Village may reimburse itself from the funds on deposit and deduct any such reimbursement from the amount refunded to the applicant. If the applicant fails to timely reimburse the Village, and if the deposit is insufficient to cover a current billing during the permitting process, the Village shall cease all work on and review of the application until the outstanding bill is paid in full and the required deposit fund is replenished to its originally specified amount. Delinquent or unpaid charges in excess of any required deposit shall constitute a special charge for services rendered subject to imposition and collection under Wis. Stats. §66.0703(16).

24.18 PENALTIES.

(1) Any person or persons, firm, company or corporation, owner, occupant or other user of the premises who violates, disobeys, omits, neglects or refuses to comply with or resists the enforcement of any of the provisions of this Chapter shall be subject to a forfeiture as specified below, together with the costs of prosecution and applicable penalty assessments, fees and surcharges. The forfeiture, fees, costs, assessments and surcharges shall be ordered paid within 60 days. Each day of violation or noncompliance shall constitute a separate offense.

Simplified Erosion Control Permit	Erosion Control and/or Storm Water Management Permit
\$150/day – 1 st Notice	\$500/day – 1 st Notice
\$400/day – 2 nd Notice	\$1,000/day – 2 nd Notice
\$800/day – 3 rd Notice	\$2,000/day – 3 rd Notice

(2) Any person who has the ability to pay any forfeiture entered against him or her under this Chapter but refuses to do so may be confined in the county jail until such forfeiture is paid, but in no event to exceed ninety (90) days. In determining whether an individual has the ability to pay a forfeiture, all items of income and all assets may be considered regardless of whether or not such income or assets are subject to garnishment, lien or attachment by creditors.

(3) As a substitute for or as an addition to forfeiture actions under sub. (1) or corrective action under §24.165, the Village Attorney is authorized to seek enforcement of

any part of this Chapter by court action seeking injunctive relief. It shall not be necessary for the village attorney to take corrective action or prosecute for forfeiture before resorting to injunctive relief. [Am. 07-02; Eff. 03-23-07]

(4) Late filing fee. When an applicant or landowner begins work requiring a permit before obtaining the permit or appropriate approvals, the fee shall be doubled.

(5) Expired permit fee. When an applicant or landowner fails to establish the site according to the approved permit conditions, an after-the-fact permit is required, and application fees shall be doubled.

24.19 INTERPRETATION. In their interpretation and application, the provisions of this ordinance shall be held to be minimum requirements and shall be broadly construed in favor of the Village of DeForest, and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes.

24.20 SEVERABILITY.

The various provisions of this chapter are severable. If any section, provision or portion of this ordinance is ruled invalid or unenforceable by a court of competent jurisdiction, such determination shall not affect the applicability of the remainder of this chapter.

CHAPTER 25
SHORELAND ZONING

[Am. 21-009, Eff. 5-14-21]

SUBCHAPTER I: SHORELAND-WETLAND ZONING REGULATIONS25-1

25.01	Title.....	25-2
25.02	Declaration of Policy and Finding of Fact	25-2
25.03	Definitions.....	25-2
25.04	Shoreland Wetland Zoning Maps	25-5
25.05	Shoreland Wetland Zoning District Boundaries	25-5
25.06	Filled Wetlands.....	25-6
25.07	Wetlands Landward of a Bulkhead Line	25-6
25.08	Permitted Uses	25-6
25.09	Uses Requiring Zoning Permit.....	25-7
25.10	Prohibited Uses.....	25-9
25.11	Nonconforming Structures and Uses	25-9
25.12	Amending Shoreland Wetland Zoning Regulations	25-9
25.13	Fees	25-11
25.14	Zoning Permits	25-11
25.15	Conditional Use Permits.....	25-11
25.16	Certificates of Compliance.....	25-11
25.17	Recording	25-12
25.18	Revocation.....	25-12
25.19	Duration	25-12
25.20	Inspections	25-12
25.22	Repl. 21-09, Eff. 5-14-21	25-12
25.23	Design Criteria, Standards & Specifications for Control Measures	25-12
25.24	Maintenance of Control Measures.....	25-13
25.25	Planning and Zoning Administrator	25-14
25.26	Statutory Authority	25-14
25.27	Compliance.....	25-14
25.28	Municipalities and State Agencies Regulated.....	25-14
25.29	Scope of Geographic Coverage.....	25-14
25.30	Severability	25-15
25.31	Abrogation and Greater Restrictions	25-15
25.32	Interpretation	25-15
25.33	Annexed Areas	25-15

SUBCHAPTER II: SHORELAND ZONING REGULATIONS25-15

25.41	Title.....	25-15
25.42	Declaration of Policy and Finding of Fact	25-15
25.43	Definitions.....	25-15
25.44	Applicability.....	25-16
25.45	Vegetative Buffer Zone	25-16
25.46	Minimum Structure Setback.....	25-17
25.47	Nonconforming Structures	25-18

ADDENDUM – SUBCHAPTER III: ADMINISTRATION AND ENFORCEMENT	25-19
25.48 Administration.....	25-19
24.49 Appeals and Variances.....	25-19
25.50 Violations, Enforcement and Penalties.....	25-19

Subchapter I
Shoreland-Wetland Zoning Regulations

25.01 TITLE. This subchapter shall be known as the "Shoreland-Wetland Zoning Ordinance" of the Village of DeForest.

25.02 DECLARATION OF POLICY AND FINDING OF FACT. The Village of DeForest Board and the Village Planning and Zoning Commission have found after extensive study and Public Hearings that the uncontrolled use of the shoreland-wetlands and pollution of the navigable waters of the Village would adversely affect the public health, safety, convenience and general welfare and impair the tax base. Thus, the Legislature of Wisconsin has delegated responsibility to all municipalities to:

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

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

(1) "ACCESSORY STRUCTURE OR USE" means a detached subordinate structure or a use which is clearly incidental to, and customarily found in connection with, the principle structure or use to which it is related and which is located on the same lot as that of the principle structure or use.

(2) "BOATHOUSE" as defined in §30.01(1d), *Wis. Stats.*, means a permanent structure used for the storage of watercraft and associated materials and includes all

structures which are totally enclosed, have roofs or walls or any combination of structural parts.

(3) "CONDITIONAL USE" means a use which is permitted by this chapter provided that certain conditions specified in this chapter are met and a permit is granted by the Village of DeForest Planning and Zoning Commission.

(4) "DEPARTMENT" means the Wisconsin Department of Natural Resources.

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

(6) "DRAINAGE SYSTEM" means one or more artificial ditches, tile drains or similar devices which collect surface runoff or groundwater and convey it to a point of discharge.

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

(8) "LANDOWNER" means any person holding title to or having an ownership interest in land.

(9) "LAND USER" means any person who uses land collectively or individually as owner, operator, lessor or renter, or who occupies land by providing work or service that requires alteration of the land, or any person who has made other arrangements with a landowner which gives them the right and/or responsibility to use of the land.

(10) "NAVIGABLE WATERS" means Lake Superior, Lake Michigan, and all natural inland lakes within Wisconsin. This also includes, but is not limited to, all streams, ponds, sloughs, flowage and other waters within the territorial limits of the State of Wisconsin, including the Wisconsin portion of boundary waters, which are considered navigable under the laws of this state. Under §281.31, *Wis. Stats.*, notwithstanding any other provisions of law or administrative rule promulgated thereunder, shoreland ordinances required under §61.351, *Wis. Stats.*, and Chapter NR117, *Wis. Admin. Code*, do not apply to lands adjacent to farm drainage ditches if:

(a) Such lands are not adjacent to a natural navigable stream or river;

(b) Those parts of such drainage ditches adjacent to such lands were not navigable streams before ditching; and

(c) Such lands are maintained in nonstructural agricultural use.

It should be noted that the "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 *DeGaynor 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 this state though it may be dry during other seasons."

(11) "ORDINARY HIGH-WATER MARK" means 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 or terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic. Where the bank or shore at any particular place is of such character that it is difficult or impossible to ascertain where the point of ordinary high-water mark is, recourse may be had to the opposite bank of a stream or to other places on the shore of a lake or flowage to determine whether a given stage of water is above or below the ordinary high-water mark. [Am. 21-09, Eff. 5-14-21]

(12) "PARCEL" means all contiguous lands under the ownership or control of a land occupier or land user.

(13) "PERSON" means any individual, corporation, partnership, joint venture, agency, unincorporated association, municipal corporation, county or state agency within Wisconsin, the federal government, or any combination thereof.

(14) "PLANNING AGENCY" means the Village of DeForest Planning and Zoning Commission.

(15) "SHORELANDS" means, all lands that are:

(a) Within 1,000 feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages shall be presumed to be navigable if they are listed in the Surface Water Data viewer available on the Department website, or are shown on United States Geological Survey quadrangle maps or other zoning base maps.

(b) Within 300 feet of the ordinary high-water mark of navigable rivers or streams, or to the landward side of the floodplain, whichever distance is greater. Rivers and streams shall be presumed to be navigable if they are designated as continuous waterways or intermittent waterways on United States Geological Survey quadrangle maps. Floodplains are as designated on the Official Floodplain Zoning Map of the Village, per Chapter 21.

Shorelands do not include lands adjacent to an artificially constructed drainage ditch, pond, or retention basin if the drainage ditch, pond or retention basin is not hydrologically connected to a natural navigable water body.

[Am. 21-09, Eff. 5-14-21]

(16) "SHORELAND-WETLAND DISTRICT" means the Zoning District, created in this Shoreland-Wetland Zoning Ordinance, comprised of shorelands that are designated as wetlands on the wetlands inventory maps which have been adopted and made a part of this chapter.

(17) "UNNECESSARY HARDSHIP" means that circumstances where special conditions, which were not self-created, affect a particular property and make strict

conformity with restrictions governing the area, setbacks, frontage height or density unnecessarily burdensome or unreasonable in light of the purposes of this chapter.

(18) "VARIANCE" means an authorization granted by the Board of Appeals to construct or alter a building or structure in a manner that deviates from the dimensional standards of this chapter.

(19) "VILLAGE ENGINEER" means the person or a representative of the firm appointed and retained by the Village Board to provide engineering services.

(20) "WETLANDS" means those areas where water is at, near or above the land surface long enough to support aquatic or hydrophytic vegetation and which have soils indicative or wet conditions.

(21) "WETLAND ALTERATION" means any filling, flooding, draining, dredging, ditching, tiling, excavating, temporary water level stabilization measures or dike and dam construction in a wetland area.

(22) "WORKING DAY" means Monday , Tuesday, Wednesday, Thursday or Friday, excluding, however, any such day officially observed by the Village as a legal holiday. Also referred to as "business day".

[Repl. 21-09, Eff. 5-14-21]

25.04 SHORELAND-WETLAND ZONING MAPS. The following maps are hereby adopted and made part of this subchapter and are on file in the office of the Village Clerk:

(1) Wisconsin Wetland Inventory Maps stamped "REVISED" on July 26, 1994.

[Am. 96-45, Eff. 12-02-96]

(2) Floodplain zoning maps titled "DNR Floodplain Study Map based on the Flood Insurance study by HUD," and dated March 1978, as revised August 5, 1988.

(3) United States Geological Survey Maps dated 1987.

25.05 SHORELAND-WETLAND ZONING DISTRICT BOUNDARIES. The Shoreland-Wetland Zoning District includes all wetlands in the Village which are shown on the final Wetland Inventory Map that has been adopted and made a part of this subchapter and which are:

(1) Within one thousand (1,000) feet of the ordinary high-water mark of navigable lakes, ponds or flowages. Lakes, ponds or flowages in the Village shall be presumed to be navigable if they are shown on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a part of this subchapter.

(2) 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. Rivers and streams shall be presumed to be navigable if they are designated as either continuous or intermittent waterways on the United States Geological Survey quadrangle maps or other zoning base maps which have been incorporated by reference and made a

part of this subchapter. Floodplain zoning maps adopted in sec. 23.04(2) shall be used to determine the extent of floodplain areas.

Determination of navigability and ordinary high-water mark location shall initially be made by the Zoning Administrator. When questions arise, the Planning and Zoning Administrator shall contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.

When an apparent discrepancy exists between the Shoreland-Wetland District Boundary shown on the official zoning maps and actual field conditions at the time the maps were adopted, the Planning and Zoning Administrator shall contact the appropriate district office of the Department to determine if the Shoreland-Wetland District Boundary as mapped is in error. If Department staff concurs with the Planning and Zoning Administrator that a particular area was incorrectly mapped as a wetland, the Planning and Zoning Administrator shall have the authority to immediately grant or deny a zoning permit in accordance with the regulations applicable to the correct zoning district. In order to correct wetland mapping errors or acknowledge exempted wetlands designated in secs. 25.06 and 25.07, the Planning and Zoning Administrator shall be responsible for initiating a map amendment within a reasonable period.

25.06 FILLED WETLANDS. Wetlands which are filled prior to March 9, 1990, the date on which the Village of DeForest received final wetland inventory maps, in a manner which affects their wetland characteristics to the extent that the area can no longer be defined as wetland, are not subject to this subchapter.

25.07 WETLANDS LANDWARD OF A BULKHEAD LINE. Wetlands located between the original ordinary high water mark and a bulkhead line established prior to May 7, 1982 under §30.11, *Wis. Stats.*, are not subject to this subchapter.

25.08 PERMITTED USES. The following uses are permitted subject to the provisions of Chapters 30 and 31, *Wis. Stats.*, and the provisions of other local, state and federal laws, where applicable:

(1) Activities and uses which do not require the issuance of a Zoning Permit, provided that no wetland alteration occurs:

- (a) Hiking, fishing, trapping, hunting, swimming, snowmobiling and boating;
- (b) The harvesting of wild crops, such as marsh hay, ferns, moss, wild rice, berries, tree fruits and tree seeds, in a manner that is not injurious to the natural reproduction of such crops;
- (c) The practice of silviculture, including the planting, thinning and harvesting of timber;
- (d) The pasturing of livestock;
- (e) The cultivation of agricultural crops; and
- (f) The construction and maintenance of duck blinds.

(2) Uses which do not require the issuance of a Zoning Permit and which may involve wetland alterations only to the extent specifically provided below:

(a) The practice of silviculture, including limited temporary water level stabilization measures which are necessary to alleviate abnormally wet or dry conditions that would have an adverse impact on the conduct of silvicultural activities if not corrected;

(b) The cultivation of cranberries, including limited wetland alterations necessary for the purpose of growing and harvesting cranberries;

(c) The maintenance and repair of existing drainage systems to restore pre-existing levels of drainage, including the minimum amount of filling necessary to dispose of dredged spoil, provided that the filling is otherwise permissible and that dredged spoil is placed on existing spoil banks where possible;

(d) The construction and maintenance of fences for the pasturing of livestock, including limited excavating and filling necessary for such construction or maintenance;

(e) The construction and maintenance of piers, docks, walkways, observation decks and trail bridges built on pilings, including limited excavating and filling necessary for such construction or maintenance;

(f) The installation and maintenance of sealed tiles for the purpose of draining lands outside the Shoreland-Wetland Zoning District provided that such installation or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the shoreland-wetland listed in sec. 25.12(3) of this subchapter; and

(g) The maintenance, repair, replacement and reconstruction of existing highways and bridges, including limited excavating and filling necessary for such maintenance, repair, replacement or reconstruction.

25.09 USES REQUIRING ZONING PERMIT. Uses which are allowed upon the issuance of a conditional use permit and which may include wetland alterations only to the extent specifically provided below:

(1) The construction and maintenance of streets which are necessary for the continuity of the Village of DeForest street system, the provision of essential utility and emergency services or to provide access to uses permitted under secs. 25.08 and 25.09 of this subchapter, provided that:

(a) The street cannot, as a practical matter, be located outside the wetland;

(b) The street is designed and constructed to minimize adverse impacts upon the natural functions of the wetland listed in sec. 25.12(3) of this subchapter;

(c) The street is designed and constructed with the minimum cross-sectional area practical to serve the intended use;

(d) Street construction activities are carried out in the immediate area of the roadbed only; and

(e) Any wetland alteration must be necessary for the construction or maintenance of the road.

(2) The construction and maintenance of nonresidential buildings provided that:

(a) The building is used solely in conjunction with a use permitted in the Shoreland-Wetland District or for the raising of waterfowl, minnows or other wetland or aquatic animals;

(b) The building cannot, as a practical matter, be located outside the wetland;

(c) The building does not exceed 500 square feet in floor area; and

(d) Only limited filling and excavating necessary to provide structural support for the building is allowed.

(3) The establishment and development of public and private parks and recreation areas, outdoor education areas, historic, natural and scientific areas, game bird and animal farms, wildlife preserves and public boat launching ramps, provided that:

(a) Any private development allowed under this paragraph shall be used exclusively for the permitted purpose;

(b) Only limited filling and excavating necessary for the development of public boat launching ramps, swimming beaches or the construction of park shelters or similar structures is allowed;

(c) The construction and maintenance of streets necessary for the uses permitted under this paragraph are allowed only where such construction and maintenance meets the criteria in sec. 25.09(1) of this subchapter; and

(d) Wetland alterations in game refuges and closed areas, fish and wildlife habitat improvement projects, game bird and animal farms and wildlife preserves shall be for the purpose of improving wildlife habitat or to otherwise enhance wetland values.

(4) The construction and maintenance of electric and telephone transmission lines, water and gas distribution lines and sewage collection lines and related facilities and the construction and maintenance of railroad lines provided that:

(a) The utility transmission and distribution facilities and railroad lines cannot, as a practical matter, be located outside the wetland;

(b) Only limited filling or excavating necessary for such construction or maintenance is allowed; and

(c) Such construction or maintenance is done in a manner designed to minimize adverse impacts upon the natural functions of the wetland listed in sec. 25.12(3) of this subchapter.

25.10 PROHIBITED USES. Any use not listed in secs. 25.08 and 25.09 of this subchapter is prohibited, unless the wetland or a portion of the wetland has been rezoned by amendment of this subchapter in accordance with sec. 25.12 of this subchapter.

The use of a boathouse for human habitation and the construction or placement of a boathouse or fixed houseboat below the ordinary high-water mark of any navigable waters are prohibited.

25.11 NONCONFORMING STRUCTURES AND USES. The lawful use of a building, structure or property which existed at the time this subchapter, or an applicable amendment to this subchapter, took effect and which is not in conformity with the provisions of this subchapter, including the routine maintenance of such a building or structure, may be continued, subject to the following conditions that the shoreland-wetland provisions of this subchapter authorized by §61.351, *Wis. Stats.*, shall not limit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure or of any environmental control facility related to such a structure in existence on the effective date of the shoreland-wetland provisions. All other modifications to nonconforming structures are subject to §62.23(7)(h), *Wis. Stats.*, which limits total lifetime structural repairs and alterations to fifty percent (50%) of current fair market value.

If a nonconforming use or the use of a nonconforming structure is discontinued for twelve (12) consecutive months, any future use of the building, structure or property shall conform to this subchapter.

Any legal nonconforming use of property which does not involve the use of a structure and which existed at the time of the adoption or subsequent amendment of this subchapter adopted under §61.351, *Wis. Stats.*, may be continued although such use does not conform with the provisions of this subchapter. However, such nonconforming use may not be extended.

The maintenance and repair of nonconforming boathouses which are located below the ordinary high-water mark of any navigable waters shall comply with the requirements of §30.121, *Wis. Stats.*.

25.12 AMENDING SHORELAND-WETLAND ZONING REGULATIONS. The Village Board upon recommendation of the Village of DeForest Planning and Zoning Commission may alter, supplement or change the District Boundaries and the regulations contained in this subchapter in accordance with the requirements of §62.23(7)(d)2, *Wis. Stats.*, and sec. NR117, *Wis. Admin. Code*.

This procedure for amending shall also be followed:

(1) A copy of each proposed text or map amendment shall be submitted to the appropriate district office of the Department within five days of the submission of the proposed amendment to the Village of DeForest Planning and Zoning Commission;

(2) All proposed text and map amendments to the shoreland-wetland zoning regulations shall be referred to the Village of DeForest Planning and Zoning Commission, and a Public Hearing shall be held after Class II notice as required by §62.23(7)(d)2., *Wis. Stats.* The appropriate district office of the Department shall be provided with written notice of the Public Hearing at least ten (10) days prior to such hearing.

(3) In order to insure that this subchapter will remain consistent with the shoreland protection objectives of §281.31, *Wis. Stats.*, the Village of DeForest Board may not rezone a wetland in a Shoreland-Wetland Zoning District, or any portion thereof, where the proposed rezoning may result in a significant adverse impact upon any of the following wetland functions.

- (a) Storm and flood water storage capacity;
- (b) Maintenance of dry season stream flow or the discharge of groundwater to a wetland, the recharge of groundwater from a wetland to another area or the flow of groundwater through a wetland;
- (c) Filtering or storage of sediments, nutrients, heavy metals or organic compounds that would otherwise drain into navigable waters;
- (d) Shoreline protection against erosion;
- (e) Fish spawning, breeding, nursery or feeding grounds;
- (f) Wildlife habitat; or
- (g) Areas of special recreational, scenic or scientific interest, including scarce wetland types and habitat of endangered species.

(4) Where the District Office of the Department determines that a proposed rezoning may have a significant adverse impact upon any of the criteria listed in sec. 25.12(3) of this subchapter, the Department shall so notify the Village of DeForest of its determination either prior to or during the public hearing held on the proposed amendment.

The appropriate District Office of the Department shall be provided with:

- (a) A copy of the recommendation and report, if any, of the Village of DeForest Planning and Zoning Commission on a proposed text or map amendment, within ten (10) days after the submission of those recommendations to the Village of DeForest Board.
- (b) Written notice of the action on the proposed text or map amendment within ten (10) days after the action is taken.

If the Department notified the Village of DeForest Planning and Zoning Commission in writing that a proposed amendment may have a significant adverse impact upon any of the criteria listed in sec. 25.12(3) of this subchapter, that proposed amendment, if approved by the Village of DeForest Board, shall not become effective until more than thirty (30) days have elapsed since written notice of the municipal approval was mailed to the Department, as required by sec. 25.12(4)(b) of this subchapter. If within the thirty (30) day period, the Department notifies the Village of DeForest that the Department intends to adopt a superseding shoreland-wetland zoning ordinance for the Village of DeForest as provided by §61.351(6), *Wis. Stats.*, the proposed procedure under §61.351(6), *Wis. Stats.*, is completed or otherwise terminated. The Village of DeForest shall notify the applicant of the Department intent and the proposed amendment.

25.13 FEES.

(1) **ZONING PERMITS.** The application fee for a zoning permit as defined under this subchapter shall be one hundred fifty dollars (\$150.00). In addition to this fee for a zoning permit, before any permit will be issued, the applicant must pay the actual engineering fees or expenses incurred by the Village in connection with the review of the permit and the engineering fees or expenses estimated to be incurred for any on-site inspection during the project. These additional charges shall be obtained from the Finance Committee Chairperson and the Village Administrator.

(2) **CONDITIONAL USE PERMITS** The application fee for conditional use permits shall be twenty-five dollars (\$25.00).

(3) **ADDITIONAL FEES.** The cost of all legal notice and Public Hearings shall be paid prior to the issuance of the permit by the applicant. If after fourteen (14) days the applicant has not paid the above fees, the permit shall be considered revoked.

25.14 ZONING PERMITS. Unless another section of this subchapter specifically exempts certain types of development from this requirement, a Zoning Permit shall be obtained from the Planning and Zoning Administrator before any new development, as defined in sec. 25.03(5) of this subchapter, or any change in the use of an existing building or structure is initiated.

25.15 CONDITIONAL USE PERMITS. Any use listed as a conditional use in this subchapter shall be permitted only after an application has been submitted to the Planning and Zoning Administrator and a conditional use permit has been so recommended by the Village of DeForest Planning and Zoning Commission and passed by resolution by the DeForest Village Board. Appeals must be taken to the Board of Appeals following the procedures of this subchapter.

25.16 CERTIFICATES OF COMPLIANCE. Except where no zoning permit or conditional use permit is required, no land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, rebuilt or replaced shall be occupied, until a certificate of compliance is issued by the Planning and Zoning Administrator, subject to the following provisions.

(1) The Certificates of Compliance shall show that the building or premises or part thereof, and the proposed use thereof, conform to the provisions of this subchapter.

(2) Application for such certificate shall be concurrent with the application for a Zoning or Conditional Use Permit.

(3) The Certificate of Compliance shall be issued with ten (10) days after notification of the completion of the work specified in the Zoning or Conditional Use Permit, providing the building or premises and proposed use thereof conform with all the provisions of this subchapter.

The Planning and Zoning Administrator may issue a temporary Certificate of Compliance for a building, premises or part thereof pursuant to rules and regulations established by the Village of DeForest Board.

Upon written request from the owner, the Planning and Zoning Administrator shall issue a certificate of compliance for any building or premises existing at the time of ordinance adoption, certifying after inspection, the extent and type of use made of the building or premises and whether or not such use conforms to the provisions of this subchapter.

25.17 RECORDING. Where a Zoning Permit, Conditional Use Permit or Certificate of Compliance is approved, an appropriate record shall be made by the Planning and Zoning Administrator of the land use and structures permitted.

25.18 REVOCATION. Where the conditions of a Zoning Permit or Conditional Use Permit are violated or where the appropriate fees are not paid as per sec. 25.13 of this subchapter, the permit shall be revoked by the Chairperson of the Planning and Zoning Commission.

25.19 DURATION. All permits issued under the authority of this subchapter shall be valid for a period of twelve (12) months from the date of issuance. All work must be completed prior to expiration of the permit. If activity is to continue beyond the expiration of the permit, then reapplication and review pursuant to this subchapter is required.

25.20 INSPECTIONS. The Village Engineer, Planning and Zoning Administrator, Planning and Zoning Chairperson or their authorized agents shall inspect all permits and conditional use activities in order to ensure compliance with the Permit and this subchapter.

If the land disturbing or land development activities are being carried out without a valid permit, i.e., unauthorized, the Planning and Zoning Administrator, Village Engineer, Chairperson of Planning and Zoning, Building Inspector, Chief of Police or their authorized agents, if refused entry to the land in question, shall seek special inspection warrant provisions of §66.0119, *Wis. Stats.* to enter said lands.

[Renum. to 25.50. 21-09, Eff. 5-14-21]

25.22 [Repl. 21-09, Eff. 5-14-21]

25.23 DESIGN CRITERIA, STANDARDS AND SPECIFICATIONS FOR CONTROL MEASURES. Unless otherwise specified herein, all control measures required to comply with this subchapter shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications periodically established by the United States Soil Conservation Service, Wisconsin Department of Natural Resources or otherwise identified as acceptable by the Village Engineer. Where design criteria, standards or specifications conflict, the most restrictive provisions shall apply.

(1) **CONDITIONAL USE.** Upon consideration of the permit application and the standards applicable to the conditional uses designated in sec. 25.15 of this subchapter, the Planning and Zoning Commission shall attach such conditions to a conditional use permit, in addition to those required elsewhere in this subchapter, as are necessary to further the purpose of this subchapter as listed in sec. 25.02. Such conditions may include specifications for, without limitation because of specific enumeration; type of shore cover; erosion controls; increased setbacks; specific sewage disposal and water supply facilities; landscaping and planting screens; period of operation; operational control; sureties; deed restrictions; location of piers, docks, parking areas and signs; and type of construction. To secure information upon which to base its determination, the Planning and Zoning

Commission may require the applicant to furnish, in addition to the information required for a Zoning Permit, other pertinent information which is necessary to determine if the proposed use is consistent with the purpose of this subchapter.

(2) **ZONING PERMIT.** An application for a Zoning Permit shall be made to the Planning and Zoning Administrator upon forms furnished by the Village of DeForest and shall include, for the purpose of proper enforcement of these regulations, the following information:

(a) General Information

1. Name, address and telephone number of applicant, property owner and contractor, where applicable.
2. Legal description of the property and a general description of the proposed use or development.
3. Whether or not a private water supply or sewage system is to be installed.

(b) Site Development Plan The site development plan shall be submitted as a part of the permit application and shall contain the following information drawn to scale:

1. Dimensions and area of the lot;
2. Location of any structures with distances measured from the lot lines and center line of all abutting streets or highways;
3. Description of any existing or proposed on-site sewage systems or private water supply systems;
4. Location of the ordinary high-water mark of any abutting navigable waterways;
5. Boundaries of all wetlands;
6. Existing and proposed topographic and drainage features and vegetative cover;
7. Location of floodplain and floodway limits on the property as determined from floodplain zoning maps;
8. Location of existing or future access roads, as shown on the Village of DeForest Master Plan;
9. Specifications and dimensions for areas of proposed wetland alteration.

25.24 MAINTENANCE OF CONTROL MEASURES. All control measures necessary to meet the requirements of this subchapter shall be maintained by the landowner at his/her cost in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions during the period of the land development or for such longer period of time as specified in the Permit.

25.25 PLANNING AND ZONING ADMINISTRATOR. The Village Administrator is appointed Planning and Zoning Administrator for the purpose of administering and enforcing this subchapter.

The Planning and Zoning Administrator shall have the following duties and powers:

- (1) Advise applicants as to the provisions of this subchapter and assist them in preparing permit applications and appeal forms.
- (2) Issue permits and certificates of compliance and inspect properties for compliance with this subchapter.
- (3) Keep records of all permits issued, inspections made, work approved and other official actions.
- (4) Have access to any structure or premises between the hours of 8 a.m. and 6 p.m. for the purpose of performing these duties, or his/or designee.
- (5) Submit written notice to public hearings to the appropriate district office of the Department 10 days prior to such hearings and submit copies of decisions on Variances, Conditional Use Permits, appeals for a map or text interpretation and map or text amendments within ten (10) days after they are granted or denied, to the appropriate district office of the Department.
- (6) Investigate and report violations of this subchapter to the Village Board and the Planning and Zoning Commission and the Village Attorney.

25.26 STATUTORY AUTHORITY. This subchapter is adopted pursuant to the authorization in §§61.35 and 61.351, *Wis. Stats.*

25.27 COMPLIANCE. The use of wetlands and the alteration of wetlands within the shoreland area of the Village of DeForest shall be in full compliance with the terms of this subchapter and other applicable local, state or federal regulations. (However, see sec. 25.11 of this subchapter, for the standards applicable to nonconforming uses.) All permitted development shall require the issuance of a Zoning Permit unless otherwise expressly excluded by a provision of this subchapter.

25.28 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.*, applied. The construction, reconstruction, maintenance and repair of the state highways and bridges by the Wisconsin Department of Transportation are exempt when §30.12(4)(a), *Wis. Stats.*, applies.

25.29 SCOPE OF GEOGRAPHIC COVERAGE

- (1) **WITHIN THE VILLAGE.** Unless specifically excluded herein, this subchapter applies to all land disturbing and land developing activities occurring within the corporate limits of the Village and which are within defined wetlands.

(2) WITHIN THE EXTRATERRITORIAL AREA. This subchapter shall apply outside the Village limits within the extraterritorial plat review area provided by Chapter 236, *Wis. Stats.*, and Chapter 15, DeForest Municipal Code, but only to those land disturbing activities relating to, arising from, or connected with a subdivision as defined in §236.02(12), *Wis. Stats.*, and which are within defined wetlands.

25.30 SEVERABILITY. If any provision of this subchapter is invalid or unconstitutional or if the application of this subchapter to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this subchapter which can be given effect without the invalid or unconstitutional provisions or applications.

25.31 APPLICATION AND GREATER RESTRICTIONS. It is not intended by this subchapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, ordinances or permits previously adopted or issued pursuant to law. However, wherever this subchapter imposes greater restrictions, the provisions of this subchapter shall govern.

25.32 INTERPRETATION. In their interpretation and application, the provisions of this subchapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the *Wis. Stats.* Where any terms or requirements of this subchapter may be inconsistent or conflicting, the more restrictive requirement or interpretation shall control.

25.33 ANNEXED AREAS. The Dane County Shoreland Zoning Provisions in effect on the date of annexation remain in effect administered by the Village of DeForest for all areas annexed by the Village of DeForest after May 7, 1992. These annexed lands are described on the Village of DeForest Official Map and the Village of DeForest Board Minutes. The Dane County Shoreland Zoning Provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the Village of DeForest Planning and Zoning Administrator.

Subchapter II
Shoreland Zoning Regulations
[Subch II Cr. 21-009, Eff. 5-14-21]

25.41 TITLE. This subchapter shall be known as and may be referred to or cited as the "Shoreland Zoning Regulations."

25.42 DECLARATION OF POLICY AND FINDING OF FACT.

Uncontrolled development within shorelands and pollution of navigable waters would adversely affect the public health, safety, convenience, and general welfare of the Village and impair its tax base. The regulations in this subchapter are established pursuant to §61.353, *Wis. Stats.* to preserve water quality, shore cover, natural areas, and natural beauty by establishing minimum setbacks in shorelands and limiting the removal of shoreline vegetation.

25.43 DEFINITIONS.

For the purpose of this subchapter, the following definitions shall apply:

(1) NONCONFORMING STRUCTURE. A structure constructed legally under the regulations in effect at the time of its construction and any expansion, but which does not fully comply with the current standards of this subchapter.

(2) PRINCIPAL BUILDING. The main building or structure on a single lot or parcel of land in

which a primary or independent use of the lot on which it is located is conducted; includes any attached garage or attached porch.

(3) 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 buildings or other structures is limited or prohibited under this subchapter.

(4) STRUCTURE. Any manmade object with form, shape, and utility, either permanently or
temporarily attached to, placed upon or set into the ground.

(5) VEGETATIVE BUFFER ZONE. That portion of a shoreland lying within 35 feet inland from the ordinary high-water mark of navigable waters, which contains trees, shrubs or other vegetation.

25.44 APPLICABILITY.

(1) The regulations in this subchapter shall apply to those shorelands that were incorporated into the Village after May 7, 1982.

(2) The regulations in this subchapter shall not apply to lands adjacent to an artificially constructed drainage ditch, pond, or stormwater retention basin if the drainage ditch, pond, or retention basin is not hydrologically connected to a natural navigable water body.

(3) All shorelands are also subject to all other applicable provisions of the Village of DeForest Municipal Code, including but not limited to Chapter 15, Zoning Code. Where the provisions of this subchapter are more restrictive than other regulations in the Municipal Code, the provisions of this subchapter shall control.

25.45 VEGETATIVE BUFFER ZONE.

(1) Any person owning property within a vegetative buffer zone that existed as of July 14, 2015 shall maintain vegetation growing therein, except that an owner may remove vegetation within the vegetative buffer zone to:

(a) Manage exotic or invasive species, damaged vegetation, vegetation that must be removed to control disease, or vegetation creating an imminent safety hazard, provided that vegetation shall be restored as soon as practicable.

(b) Clear vegetation to establish a viewing or access corridor that is not wider than the 30% of the lot's frontage on the navigable water or 200 feet wide, whichever is less.

(2) Removal of vegetation within a vegetative buffer zone shall require an erosion control permit under Chapter 24 of the Municipal Code, if the land disturbance exceeds one or more thresholds for requiring an such permit under Section 24.07 of the Municipal Code.

25.46 MINIMUM STRUCTURE SETBACK.

(1) Except as provided in subs. (2) or (3), no structure within a shoreland shall be closer than 50 feet from the ordinary high-water mark of a navigable body of water.

(2) Subsection (1) does not prohibit or restrict any of the following:

(a) The construction or placement of a principal building within any shoreland setback area established under subsection (1) if all of the following apply:

1. The principal building will be constructed or placed on a lot or parcel of land that is immediately adjacent on each side to lots or parcels of land containing principal buildings.
2. The principal building will be constructed or placed within a distance equal to the average setback of the principal buildings on the adjacent lots or 35 feet from the ordinary high-water mark, whichever distance is greater.

(b) The maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of any of the following, provided that the building footprint is not expanded:

1. a nonconforming structure,
2. a structure lawful encroaching on a setback area by operation of a variance granted before July 13, 2015, or
3. a building in existence for more than 10 years.

(c) The construction, maintenance, repair, replacement, restoration, rebuilding, or remodeling of all or any part of any of the following:

1. A boathouse, as defined in §30.01(1d), Wis. Stats. that is located entirely above the ordinary high-water mark.
2. A broadcast signal receiver, including a satellite dish, or an antenna that is no more than one meter in diameter and a satellite earth station antenna that is no more than 2 meters in diameter.
3. A utility transmission line, utility distribution line, pole, tower, water tower, pumping station, well pumphouse cover, or private on-site wastewater treatment system that complies with ch. SPS 383, Wis. Admin. Code., and any other utility structure for which no feasible alternative location outside of the setback exists and which is constructed and placed using best management practices to infiltrate or otherwise control storm water runoff from the structure.

4. A walkway, stairway, or rail system that is necessary to provide pedestrian access to the shoreline and is no more than 60 inches in width.
5. A navigational aid, park or interpretive sign, pier, path or trail of no greater than 12 feet in width; boat launching facility, bridge, retaining wall, or any other structure approved by the Department.
6. An open sided or screened structure such as a gazebo, deck, patios, or screen house that meets all of the following:
 - a. The part of the structure that is nearest to the water is located at least 35 feet landward from the ordinary high-water mark.
 - b. The total floor area of all of the structures in the shoreland setback area of the property will not exceed 200 square feet. In calculating this square footage, boathouses shall be excluded.
 - c. The structure has no sides or has open or screened sides.
 - d. The owner has entered into a legally binding plan that will be implemented by the owner to preserve or establish a vegetative buffer zone that covers at least 70% of the half of the shoreland setback area that is nearest to the water.

25.47 NONCONFORMING STRUCTURES.

The continuance, repair, extension, enlargement, reconstruction, relocation, and structural alteration of a nonconforming structure shall be governed by applicable subsections of Section 15.17 of the Municipal Code, except to the extent further limited by this subchapter, §61.353, Stats.; Chapter 21 of the Municipal Code if the structure is in the floodplain; or other applicable law.

ADDENDUM

SHORELAND-WETLAND PERMIT APPLICATION

PROJECT NAME

APPLICANT Name Daytime Telephone Number

Address

LANDOWNER Name Daytime Telephone Number

Address

LOCATION OF LAND DISTURBING ACTIVITY (ATTACH LOCATION MAP):

____ Quarter, ____ Sec. ____ N. R. ____ E.

Street Address or Plat Name

DESCRIPTION OF ACTIVITY:

Excavating filling _____ cubic yards

Trenching _____ linear feet

Grading or removal of ground cover _____ square feet

Other (Describe)

Total area to be disturbed: _____ square feet

PROJECT FILE NO.:

APPLICATION DATE:

AMOUNT OF FEE: \$150.00

NOTIFICATION DATE TO APPLICANT:

PERMIT EXPIRATION DATE (TO BE FILLED IN UPON APPROVAL AND NOTIFICATION OF APPLICATION):

SUBCHAPTER III
ADMINISTRATION AND ENFORCEMENT
[Subch III Cr. 21-009, Eff. 5-14-21]

25.48 ADMINISTRATION.

- (1) The Zoning Administrator shall administer this subchapter, with technical assistance from other Village staff or professional consultants as the Zoning Administrator deems necessary.
- (2) The Zoning Administrator shall initially make determinations of navigability and ordinary high-water mark location. The Zoning Administrator may contact the appropriate district office of the Department for a final determination of navigability or ordinary high-water mark.
- (3) Any permit granted under this subchapter shall take the form of a building permit under Chapter 14 of the Municipal Code, or if a building permit is not required under Chapter 14, a zoning permit under Chapter 15.
- (4) Application fees shall be those applicable to a building or zoning permit for the associated structure (plus site plan and/or erosion control permit approval where required), per the associated chapter and the fee schedule approved by the Village Board. When a landowner begins work requiring a permit before obtaining the permit or appropriate approval, the Zoning Administrator shall require an after-the-fact application and the application fee shall be twice the normal fee.
- (5) In the event a review under this subchapter requires consulting engineering, legal, or planning services, the applicant shall be required to pay the actual expenses incurred by the Village in connection with the review of the permit, and any on-site inspection during and following completion of the project.

25.49 APPEALS AND VARIANCES.

Any person aggrieved by a determination by the Zoning Administrator under this chapter may appeal the determination to the Board of Zoning Appeals as provided in §15.03(5). The Board of Zoning Appeals may grant variances to the provisions of this chapter as provided in §15.03(6).

25.50 VIOLATIONS, ENFORCEMENT AND PENALTIES.

- (1) **VIOLATIONS.** Any development, building, structure or accessory building or structure constructed, altered, added to, modified, rebuilt or replaced or any use or accessory use established after the effective date of this chapter in violation of the provisions of this chapter, by any person, firm, association, corporation (including building contractors or their agents) shall be deemed a violation and thus subject to the enforcement and penalty provisions contained herein.

The Planning and Zoning Administrator shall refer violations to the Village of DeForest Planning and Zoning Commission and the Village Attorney, who shall prosecute such violations.

(2) ENFORCEMENT. This chapter shall be enforced consistent with the policies and purposes underlying its adoption. The following enforcement actions, or any combination thereof, may be taken in case of a violation of this chapter.

(a) Stop Work Order. A stop work order may be issued by the Planning and Zoning Administrator, Planning and Zoning Chairperson, Village Engineer, Village Attorney or their authorized agents, after an inspection if:

1. Any activity regulated under this chapter is being undertaken without a permit;
2. The permit is not being implemented in a good faith manner; or
3. The conditions of the permit are not being met.

Stop work orders may be retracted when compliance with this chapter is obtained. The Village Engineer, Planning and Zoning Administrator, Planning and Zoning Chairperson or their designee has the authority to retract a stop work order as issued above.

(b) Revocation of Permit. Including where otherwise noted in this chapter where a stop work order has been issued in order to obtain compliance with a permit, the Village may revoke the permit if the permittee does not cease the illegal activity or obtain compliance with the permit conditions within five (5) days from issuance of the stop work order. Permits may be revoked by the Village Engineer, Planning and Zoning Administrator or Planning and Zoning Chairperson or their designee.

(c) Village to Perform Work. Five (5) days after posting a stop work order, the Village may issue a notice of intent to the permittee or landowner or land user of the Village's intent to perform work necessary to comply with this chapter. Upon receipt of permission from the landowner or pursuant to a court order, the Village Engineer and/or other designated Village officials or agents as determined by the Village Board performed by the Village, plus interest, shall be billed to the permittee. In the event a permittee or landowner otherwise fails to pay the amount due, the Clerk shall enter the amount due on the tax rolls and collect as a special assessment against the property pursuant to §66.0703, Wis. Stats.

(d) Injunction and Other Judicial Remedies. Compliance with the provisions of this chapter may also be obtained by the Village Board authorizing the Village Attorney to commence appropriate action to enjoin violations, compel compliance, or pursue other appropriate judicial relief.

(e) Private Remedies Preserved. These enforcement provisions are not intended in any way to restrict or limit the rights of private parties to pursue whatever private legal remedies they may have available as a result of any erosion, sediment or water runoff.

(3) PENALTIES. Any person violating any provision of this chapter shall be subject to forfeitures as follows: Not less than \$500 nor more than \$2,000 plus the actual costs of prosecution for each offense. Each day a violation exists shall constitute a separate offense. The Village Board will determine when prosecution action should be taken based on its own initiative or upon reports made by the Planning and Zoning Administrator. Before commencing a forfeiture action, the Village Board shall issue a written warning to the person

believed to be violating this chapter, granting the person two (2) business days in which to remedy the violation and avoid the commencement of a forfeiture action.

CHAPTER 26 TRUANCY AND HABITUAL TRUANCY

26.01	Title	26-1
26.02	Definitions.....	26-1
26.03	Habitual Truancy Prohibited	26-1
26.031	Truancy Prohibited	26-2
26.04	Disposition and Penalties	26-2
26.05	Contributing to Truancy	26-3
26.06	Parent or Guardian Liability for Truancy	26-3
26.07	Failure to Control Habitual Truant.....	26-4
26.08	Severability.....	26-4
26.09	Interpretation	26-4
26.10	Effective Date	26-4
26.11	Establishment of Ordinance	26-4
26.12	[Reserved]	26-4
26.13	Establishment of Drug Free Zones Within the Village of DeForest.....	26-4
26.14	School Dropout	26-5
ADDENDUM Affidavit of Truancy		26-6

26.01 ENFORCEMENT. The Village of DeForest Police Department is authorized to enforce this Chapter as permitted by law, including, but not limited to, the issuance of municipal citations.

[Am. 12-05, Eff.3-2-12]

26.02 DEFINITIONS. In this Chapter:

(1) "Habitual Truant" means a pupil who is absent from school without an acceptable excuse for part or all of 5 or more days on which school is held during a school semester.

(2) "Truant" means a pupil who is absent from school without an acceptable excuse for part or all of any day on which school is held during a school semester.

(3) "Acceptable Excuse" means as the term is defined in §§118.15 and 118.16(4), *Wis. Stats.*

[Am. 12-05, Eff.3-2-12]

26.03 HABITUAL TRUANCY PROHIBITED.

(1) No person under 18 years of age may be a habitual truant.

(2) Prior to the issuance of a citation for violation of this section, the school attendance officer shall comply with the requirements of §118.16(5), *Wis. Stats.*, except as provided under §118.16(5m), *Wis. Stats.* The "Affidavit of Truancy" labeled as Addendum I to this Chapter, may be used by the school attendance officer to comply with the requirements of this subsection.

(3) Citations issued for violation of this section shall be returnable to the Village of DeForest Municipal Court. The citation shall require a mandatory appearance but no deposit amount.

[Am. 12-05, Eff.3-2-12]

26.031 TRUANCY PROHIBITED.

- (1) No person under 18 years of age may be a truant.
- (2) Citations issued for violation of this section shall be returnable to the Village of DeForest Municipal Court. The citation shall require a mandatory appearance but no deposit amount.
[Cr. 12-05, Eff.3-2-12]

26.04 DISPOSITION AND PENALTIES.

- (1) Upon finding a person habitually truant, the municipal court may enter an order making one or more of the following dispositions:
 - (a) Suspend the person's operating privilege, as defined in §340.01(40), *Wis. Stats.*, for not less than 30 days nor more than one year.
 - (b) Order the person to participate in counseling or a supervised work program other than community service work under §938.34(5g), *Wis. Stats.*
 - (c) Order the person to remain at home except during hours in which the person is attending religious worship or a school program, including travel time required to get to and from the school program or place of worship. The order may permit a person to leave his or her home if the person is accompanied by a parent or guardian.
 - (d) Order the person to attend an educational program under §938.34(7d), *Wis. Stats.*
 - (e) Order the Department of Workforce Development to revoke, under §103.72, *Wis. Stats.*, a work permit authorizing the employment of the person.
 - (f) Order the person to be placed in a teen court program if all of the following conditions apply:
 1. The chief judge of the judicial administrative district has approved a teen court program established in the person's county of residence and the judge determines that participation in the teen court program will likely benefit the person and the community.
 2. The person admits or pleads no contest in open court, with the person's parent, guardian or legal custodian present, to the allegations of habitual truancy.
 3. The person has not successfully completed participation in a teen court program during the 2 years before the date of the alleged violation.
 - (g) Order the person to attend school.

(h) A forfeiture of not more than \$500 plus costs. All or part of the forfeiture plus costs may be assessed against the person, the parents, or the guardian of the person or both.

(i) Any other reasonable conditions consistent with the prevention of habitual truancy, including a curfew, restrictions as to going to or remaining on specified premises and restrictions on associating with other children or adults.

(j) Order the person to be placed under formal or informal supervision, as described in §938.34(2) *Wis. Stats.*, for up to one year.

(k) Order the person's parent, guardian or legal custodian to participate in counseling at the parent's, guardian or legal custodian's own expense or to attend school with the person, or both.

(2) Upon finding a person under 18 years of age to be truant, as defined in §118.163, *Wis. Stats.*, the municipal court may enter an order making one or more of the following dispositions:

(a) Order the person to attend school.

(b) A forfeiture of not more than \$50 plus costs for a first violation, or a forfeiture of not more than \$100 plus costs for any 2nd or subsequent violation committed within 12 months of a previous violation, subject to the provisions of §938.37, *Wis. Stats.*, and subject to a maximum cumulative forfeiture amount of not more than \$500 for all violations committed during a school semester. All or part of the forfeiture plus costs may be assessed against the person, the parents or guardian of the person, or both.

[Am. 00-16, Eff. 5-19-00]

26.05 CONTRIBUTING TO TRUANCY.

(1) Except as provided in sec. 26.05(2) below, any person eighteen years of age or older, who, by an act or omission, knowingly encourages or contributes to the truancy, as defined in 26.02, of a child shall be subject to a forfeiture of up to five hundred dollars (\$500.00).

(2) Section 26.05(1) above does not apply to a person who has under his/her control a child who has been sanctioned under §49.26(1)(h), *Wis. Stats.*

(3) An act or omission contributes to the truancy of a child, whether or not the child is adjudged to be in need of protection or services, if the natural and probable consequences of that act or omission would be to cause the child to be a truant.

26.06 PARENT OR GUARDIAN LIABILITY FOR TRUANCY.

(1) Unless the child is excepted or excused under §118.15, *Wis. Stats.* or has graduated from high school, any person having under control a child who is between the ages of six (6) and eighteen (18) years shall cause the child to attend school regularly during the full period of hours, religious holidays excepted, that the public or private school

in which the child should be enrolled is in session until the end of the school term, quarter or semester of the school year in which the child becomes eighteen (18) years of age.

(2) A person found to have violated 26.06(1) above, after evidence is provided by a school official that the activities under §118.16(5), *Wis. Stats.* have been completed, shall be subject to a forfeitures of up to five hundred dollars (\$500.00).

(3) Section 26.06(2) above, does not apply to a person who has been sanctioned under §49.26(1)(h), *Wis. Stats.* nor does it apply if the person provides that he/she is unable to comply with sec. 26.06(1) because of the disobedience of the child.

26.07 FAILURE TO CONTROL HABITUAL TRUANT. Whoever having under his/her control a child who is between the ages of six (6) and eighteen (18) years and whose child is not in compliance with §118.15, *Wis. Stats.* shall be subject to a forfeiture of five hundred dollars (\$500.00).

26.08 SEVERABILITY. If any provision of this chapter is invalid or unconstitutional or if the application of this chapter to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Chapter which can be given effect with the invalid or unconstitutional provisions or applications.

26.09 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirement or interpretation shall control.

26.10 EFFECTIVE DATE. This chapter shall take effect following passage and publication as provided by law. This chapter shall be Chapter 26 "Habitual Truancy," of the Municipal Code of the Village of DeForest.

26.11 ESTABLISHMENT OF ORDINANCE. WHEREAS the Village of DeForest Board recognizes the best interests of the community are served by working with the DeForest Area School District in adopting, following and the joint implementation of the aforementioned chapter on "Habitual Truancy."

26.12 [Cr. 92-20, Eff. 11-4-91; Repl. 92-33, Eff. 11-2-92]

26.13 ESTABLISHMENT OF DRUG FREE ZONES WITHIN THE VILLAGE OF DEFOREST.

[Cr. 91-21, Eff. 11-4-91]

(1) The following areas shall be considered Drug Free Zones as defined in §§961.49 and 961.495, *Wis. Stats.*: While in or otherwise within one thousand feet (1000') of a village park, a swimming pool open to members of the public, a youth center or community center, while on or otherwise within one thousand feet (1000') of any private or public school premises or while on or otherwise within one thousand feet (1000') of a school bus.

(2) The Superintendent of Streets, Sanitation and Parks and Chief of Police, are so authorized to post signs designating "Drug Free Zones" at the direction of the Village of

DeForest Board. The lack of a sign designating a "Drug Free Zone" shall not constitute lack of notice. The signs are to be considered only as informational.

(3) SEVERABILITY. If any provision of this chapter is invalid or unconstitutional or if the application of this chapter to any person or circumstances is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this chapter which can be given effect with the invalid or unconstitutional provisions or applications.

26.14 SCHOOL DROPOUT.

(1) The Village of DeForest by this ordinance prohibits any juvenile from being a "dropout" as that term is defined in this section.

(2) "Dropout" means a child who has ceased to attend school, does not attend a public or private school, technical college or home-based private educational program on a full-time basis, has not graduated from high school and does not have an acceptable excuse under §118.15(1)(b) to (d) or (3), *Wis. Stats.*

(3)(a) If the municipal court finds a juvenile has violated this section, the court shall enter an order suspending the juvenile's operating privilege, as defined in §340.01(40), *Wis. Stats.*, until the juvenile reaches the age of 18.

(b) The court may enter an order making any of the dispositions specified in sec. 26.04(1) if the court finds that suspension of the juvenile's operating privilege, as defined in §340.01(40), *Wis. Stats.*, until the juvenile reaches the age of 18 would cause an undue hardship to the juvenile or the juvenile's family.

[Cr. 96-44, Eff. 11-22-96]

ADDENDUM I
AFFIDAVIT OF TRUANCY

In the interest of: _____
Birth: _____

Date of

A Minor Child Between The Ages of 6 and 18 Years of Age.

State of Wisconsin)
County of Dane)

_____, Being duly sworn on oath deposes and says that he/she is a resident of the City/Village/Town of _____, Dane County, Wisconsin, for the past _____ years and that he/she is the School Attendance Officer as employed by the DeForest Area School District.

That _____ is truant from the DeForest Area School District as truancy is defined by sections 118.163 and 948.45 of the Wisconsin Statutes and DeForest Municipal Code, Chapter 26.

That _____ is habitually truant from the DeForest Area School District as so defined by the Wisconsin Statutes, section 118.163 and 948.45 and Village of DeForest Municipal Code. That _____, has not provided the DeForest Area School District with a legal excuse that is within the DeForest Area School District Board policies and Wisconsin Statutes, section 118.15 and section 118.16(4). That _____ and _____, Legal Guardian, have received notices of _____ habitual truancy on _____.

That _____ is a DeForest Area School District employee, and has attempted to meet with or has personally met with _____ and _____, Legal Guardian, in an attempt to resolve the child's truancy.

That _____ is a DeForest Area School District employee and has provided an opportunity for educational counseling to the above named child to determine whether a change in the child's curriculum would resolve the child's truancy, and considered curriculum modifications as per the Wisconsin Statutes.

That _____ is a DeForest Area School District employee, and has evaluated the child to determine whether learning problems may be a cause of the child's truancy.

That _____ is a DeForest Area School District employee, and has evaluated the child to determine whether social problems may be the cause of the child's truancy.

That this affidavit is given for the purpose of affirming that it is not possible to resolve _____, the above named child, educational needs without court intervention.

DeForest Area School District
Attendance Officer

Subscribed and sworn to before me
this ___ day of ____, 20__.

NOTARY PUBLIC, STATE OF WISCONSIN
My Commission _____

CHAPTER 27
FAIR HOUSING AND
PROPERTY MAINTENANCE

[Cr. 91-39, Eff. 12-19-91; Title Am. 21-005, Eff. 4-16-21]

27.01	Title.....	27-1
27.02	Declaration of Policy and Finding	27-1
27.03	Rules and Definitions	27-2
27.04	Minimum Standards for Basic Equipment, Lighting, Ventilation, Heating and Electrical Service.....	27-5
27.05	Safe and Sanitary Maintenance of Property	27-9
27.051	Planned Natural Landscaping..... [Cr. 16-15, Eff. 06-17-16]	27-12
27.06	Fixing the Responsibility of Owners, Operators, and Occupants	27-13
27.07	Designation of Unfit Buildings or Structures and Legal Procedures of Repair or Razing	27-14
27.08	Administration and Enforcement	27-15
27.09	[Repealed 96-41, Eff. 10-21-96]	27-16
27.10	Severability	27-16
27.11	Abrogation and Greater Restrictions	27-16
27.12	Interpretation	27-16

27.01 DECLARATION OF POLICY AND FINDINGS. The Village Board finds that:

(2) Wisconsin law prohibits discrimination in housing on the basis of sex, race, color, disability, sexual orientation, religion, national origin, marital status, family status, status as a victim of domestic abuse, sexual assault, or stalking, lawful source of income, age, or ancestry and it is the duty of the Village government to assist in the prevention or removal of discrimination in housing within the Village.

(3) There may now be, or may in the future be, residential and nonresidential buildings, structures, yards or vacant areas which are so dilapidated, unsafe, dangerous, unhygienic, overcrowded, inadequately maintained or lacking in basic equipment or facilities, light, ventilation and heating so as to constitute a menace to the health, safety, and general welfare of the people. The establishment and enforcement of minimum property maintenance standards is necessary to preserve and promote the private and public interest of the community.

[Am. 21-005, Eff. 4-16-21]

27.02 FAIR HOUSING.

(1) STATE STATUTES ADOPTED. Section 106.50 of the Wisconsin Statutes prohibiting discrimination in housing is adopted by herein by reference.

(2) ENFORCEMENT. The officials and employees of the Village of DeForest shall assist in the orderly prevention and removal of all discrimination in housing within the Village by implementing the authority and enforcement procedures set forth in §106.50, Wis. Stats., as amended. The Village Clerk shall maintain forms for complaints to be filed under §106.50, Wis. Stats., as amended, and shall assist any person alleging a violation thereof in the Village to file a complaint thereunder with the Wisconsin Department of Workforce Development, Equal Rights Division, for enforcement. [Am. 21-005, Eff. 4-16-21]

27.03 RULES AND DEFINITIONS.

(1) RULES: In the construction of this chapter, the rules and definitions contained in this section shall be observed and applied except when the context clearly indicates otherwise:

- (a) Words used in the present tense shall include the future.
- (b) Words used in the singular number shall include the plural number, and the plural the singular.
- (c) The word "shall" is mandatory and not discretionary.
- (d) The word "may" is permissive.
- (e) The phrase "used for" shall include the phrases "arranged for," "designed for," "intended for," "maintained for," and "occupied for."

(2) DEFINITIONS

- (a) Adequate. "Adequate" shall mean adequate as determined by the Administrative Officer under the regulations of this chapter or adequate as determined by an authority designated by law or this chapter. "Adequately" shall mean the same as adequate.
- (b) Apartment. "Apartment" means one (1) or more rooms with provisions for living, cooking, sanitary and sleeping facilities arranged for use by one (1) family.
- (c) Approved. "Approved" shall mean approved by the Administrative Officer under the regulations of this chapter or approved by an authority designated by law or this chapter.
- (d) Attractive Appearance. "Attractive appearance" refers to the exterior appearance of buildings, structures, stairs, porches, and similar appurtenances and the improvement, planting and landscaping of yards and vacant areas. The determination of "attractive" used herein shall be as determined by the Administrative Officer under the regulations of this chapter or as determined by an authority designated by law or this chapter.
- (e) Basement. "Basement" means that portion of a dwelling between floor and ceiling which is below or partly below and partly above grade but so located that the vertical distance from the grade to the floor below is more than the vertical distance from grade to ceiling.
- (f) Boarding House: See Lodging House and Lodging Room.
- (g) Building. "Building" means a combination of materials to form a construction that is safe and stable, and adapted to permanent or continuous occupancy for assembly, business, education, high hazard, industrial, institutional, mercantile, residential, or storage purpose; the term "building" shall be construed as if followed by the words "or portion thereof." For the purpose of this CODE each portion of a building completely separated from other portions by an unpierced fire wall shall be considered as a separate building.

(h) Capacity in Persons: The "capacity in persons" of a building is the maximum number of persons that can occupy such building, as determined by the required floor space per person as established in the DeForest Municipal Code or by the DeForest Area Fire Chief.

(i) Compliance Inspection. An inspection performed in conjunction with a lawful order of the Chairperson of the DeForest Planning and Zoning Commission, Village Administrator or Building Inspector for the purpose of certifying the fulfillment of an official requirement listed in the order.

(j) Cooperative Living Arrangement. A "cooperative living arrangement" shall mean a collective number of individuals connected by membership in a cooperative, who equally share ownership, occupancy and control of a dwelling and who live, cook and share expenses as a bona fide single housekeeping unit. For the purposes of determining the applicability of the Village of DeForest Municipal Code relating to construction and maintenance of buildings, a building occupied by a cooperative living arrangement shall be construed to be a lodging house and shall meet all the requirements of same, except where an exception is explicitly provided in the ordinances.

(k) Dwelling. "Dwelling" is a place of abode, a residence or house for use by one (1) or more persons, excluding hotels or motels.

(l) Dwelling Unit. "Dwelling unit" means one (1) or more rooms with provisions for living, cooking, sanitary, and sleeping facilities arranged for use by one (1) family.

(m) Extermination. "Extermination" shall mean the control or elimination of infestation by eliminating harboring places and removing or making inaccessible materials that may serve as food, and by poisoning, spraying, trapping, fumigation by a licensed fumigator or any other effective elimination procedure.

(n) Family. A "family" is an individual, or two (2) or more persons related by blood, marriage or legal adoption living together as a single housekeeping unit in a dwelling unit, including foster children, domestic servants and not more than four (4) roomers, except that the term family shall not, in R1, R2, R2A, R3, and R4 residence districts, include more than one roomer except where such dwelling unit is owner-occupied. In any residence district, a family may consist of two unrelated adults and the minor children of each. Such family may not include any roomers except where the dwelling unit is owner-occupied. For the purpose of this section, "children" means natural children, grandchildren, legally adopted children, stepchildren, foster children, or a ward as determined in a legal guardianship proceeding. Up to two (2) personal attendants who provide services for family members or roomers who, because of advanced age or a physical or mental disability, need assistance with activities of daily living shall be considered part of the "family." Such services may include personal care, housekeeping, meal preparation, laundry or companionship.

(o) Friable Material. "Friable material" shall mean any material applied on ceilings, walls, structural members, piping, duct work, or any other part of a building which when dry may be crumbled, pulverized, or reduced to powder by hand pressure. The term includes non-friable material after such previously non-friable material becomes damaged to the extent that when dry it may be crumbled, pulverized, or reduced to powder by hand pressure.

(p) Good Working Condition. "Good working condition" shall mean capable of performing the task for which it was designed and in the manner intended by this code.

(q) Habitable Space. "Habitable space" is one (1) or more rooms in a dwelling used primarily for sleeping, living or dining purposes.

(r) Impervious to Water. "Impervious to water" shall mean constructed of concrete, cement block, terrazzo, brick, tile, or other material approved by the Building Inspector, and having tight fitting joints, and not having more than four and one-half percent (4 1/2%) absorption by test.

(s) Infestation. "Infestation" means the sustained presence of household pests, vermin or rodents.

(t) Living Room. "Living room" shall mean a room used primarily for living, dining or cooking purposes.

(u) Lodging House. "Lodging house" is a dwelling containing lodging rooms that will accommodate five (5) or more persons not members of a family.

(v) Lodging Room. "Lodging room" is a portion of a dwelling used primarily for sleeping and living purposes, excluding cooking facilities.

(w) Mixed Occupancy. "Mixed occupancy" shall be occupancy of a building in part for residential use and in part for some other use not accessory thereto.

(x) Occupant. "Occupant" means one who occupies or has actual possession of usable space.

(y) Operator. "Operator" shall mean any person who has charge or control of a building or part thereof in which dwelling units or lodging rooms are located or let.

(z) Owner. The term "owner" shall mean every person, firm, partnership, or any individual member thereof, corporation, business organization of any kind, the state, the country, the village, any sewer district, drainage district, the University of Wisconsin and any associated corporation or organization, and any other public or quasi-public corporation having a legal or equitable interest in the property under consideration and shall include the representative, officer, agent or other person having the ownership, control, custody or management of any building. Owner does not include any person whose legal or equitable interest in the building is a security interest derived solely from the extension of credit to permit construction or remodeling of the dwelling or purchase of the dwelling by a third party.

(aa) Person. A "person" shall mean and include any individual, firm, corporation, association or partnership.

(bb) Properly. "Properly" shall mean as deemed proper by the Administrative Officer under the regulations of this chapter or deemed proper by an authority designated by law of this chapter.

(cc) Provided. "Provided" shall mean furnished, supplied, paid for or under control of the owner.

(dd) Residential Building. A "residential building" is a building which is arranged, designed, used, or intended to be used for residential occupancy by one (1) or more families or lodgers, and which includes, but is not limited to, the following types:

1. Single-family detached dwellings.
2. Two-family detached dwellings.
3. Multiple-family dwellings (including apartment hotels).
4. Lodging houses.
5. Fraternity and sorority houses.

For the purpose of this chapter, any building containing any of the above uses together with other uses shall be considered a residential building.

(ee) Room. A "room" is a partitioned part of the inside of a building. For the purpose of this definition, partition shall mean something that divides interior space, especially an interior dividing wall. A wall is one of the sides of a room or building connecting floor and ceiling and may also include anything which encloses or separates space. A partition or wall which intrudes into the space by more than one-third (1/3) of the least dimension of an existing room may be regarded as creating an additional separate room. The partitioned space shall be considered as a room if privacy is implied; light and ventilation are affected; or a bedroom through a bedroom, bathroom through a bedroom or bedroom through a bathroom situation is created.

(ff) Rooming House. See Lodging House and Lodging Room.

(gg) Sleeping Room. A "sleeping room" shall mean a room used for sleeping purposes.

(hh) Structure. "Structure" is anything constructed or erected, the use of which requires more or less permanent location on the ground, or attached to something having permanent location on the ground.

(ii) Supplied. "Supplied" shall mean paid for, furnished, provided by or under control of, the owner or operator.

27.04 MINIMUM STANDARDS FOR BASIC EQUIPMENT, LIGHTING, VENTILATION, HEATING AND ELECTRICAL SERVICE.

(1) The purpose of this subsection is to establish minimum standards for basic equipment, lighting, ventilation, and electrical services for all residential buildings and parts thereof and to obtain the public and private benefits accruing from the provision of such services. A suitable environment for safe and healthy living is encouraged by adequate water and sanitary facilities, proper storage and disposal of garbage, recyclables, and other refuse, safe means of egress, provision of light, air, heat and electrical service.

(2) No person shall occupy as an owner or let to another for occupancy any space in a residential building for the purpose of living, sleeping, cooking or eating therein, which does not comply with the following requirements:

(a) Every dwelling unit shall contain a kitchen sink, a flush water closet, a lavatory basin and a bathtub or shower, all in good working condition and properly connected to hot and cold water lines and to an approved municipal water and sewer system. The flush water closet and bathtub or shower shall be contained within a separate room. Water pressure shall be available at all fixtures as specified in Wis. Admin. Code sec. Comm. 82.40.

(b) Every residential building shall have supplied water heating facilities which are properly installed, are maintained in safe and good working conditions, are properly connected with the hot water lines required hereunder and are capable of heating water to such a temperature as to permit an adequate amount of water to be drawn at any required kitchen sink, lavatory basin, bathtub or shower at a temperature of not less than one hundred ten (110) degrees Fahrenheit.

(c) The owner of every residential building shall be responsible for supplying such building with garbage, recycling and refuse storage as required in Chapter 22, "Village of DeForest Solid Waste Ordinance," Village of DeForest Municipal Code.

(d) Every dwelling unit and lodging room shall have direct access to at least two (2) accessible unobstructed means of egress leading to a safe and open public street. Exterior stairways or exit platforms, or a combination thereof, will be permitted as second exits provided the platform or stairways terminate at a point not more than ten (10) feet above the grade directly below the lowest platform. All stairs shall terminate at grade or a platform. Platforms shall have a minimum area of fourteen (14) square feet within a minimum dimension of three (3) feet.

All stairways and platforms shall be protected with handrails and guardrails as specified in Wis. Admin. Code secs. Comm. 21.04(3) or Comm. 51.161 and Comm. 51.162 as dictated by the type of occupancy in the building. Existing variances to the height limitations specified above may be approved by the DeForest Planning and Zoning Commission and the Village Board provided platforms or stairs are maintained in a sound structural condition.

(e) Each lodging house shall provide at least one (1) flush water closet, lavatory basin and bathtub or shower, properly connected to an approved municipal water and sewer system and in good working condition for each seven (7) persons or fraction thereof residing therein including members of the operator's family wherever they share use of said facilities, except that the required number of bathtubs or showers may be reduced by the Building Board of Examiners and Appeals for lodging houses utilizing gang bathrooms containing multiple bathtubs or showers. All such facilities shall be located on the floor occupied by persons sharing such facilities or the floor directly above or below and shall be accessible from a common hall or passageway. Every lavatory basin and bathtub or shower shall be supplied with hot water at all times.

(f) Every living, sleeping, kitchen or bathroom shall have available natural light and ventilation complying with Comm. 21.05 or Comm. 57.13 as dictated by the occupancy of the building. Existing light and ventilation conditions which do not comply with Comm. Codes may remain in use with the granting of a variance by the Planning and Zoning Commission and the Village Board.

Exhaust ventilation shall be installed in all toilet rooms except those having only one (1) fixture (water closet or one urinal) and the window area is greater than four (4) square feet and more than two (2) square feet is openable directly to the exterior of the building. The volume of air exhausted shall not be less than two (2) cubic feet per minute per square foot of floor area.

All doors and windows shall be protected with insect screens equivalent to not less than sixteen (16) wire mesh installed to prevent the entrance of flies, mosquitoes and other insects, annually during May before June 1 and maintained until storm windows are installed in autumn.

All exterior doors and windows shall have storm windows or storm doors installed or maintained to prevent excessive drafts and heat loss no earlier than October 15, but no later than November 15 annually.

(g) Electrical. Every dwelling unit and all public and common areas in multiple dwellings shall be supplied with electrical service, outlets, and fixtures which shall be properly installed, shall be maintained in good and safe working condition, and shall be connected to a source of electric power in a manner prescribed by the Wisconsin Electric Code. The minimum capacity of such electrical services and the minimum number of outlets and fixtures shall be as listed below. (For the purpose of this section "electrical service" shall mean: "The conductors and equipment for delivering electrical energy from the supply system to the wiring system of the premises or the unit served." The electrical service shall be of sufficient size to handle the load connected to it. The branch circuits shall be protected by S-type or equivalent safety type, tamper-proof fuses, not to exceed the amp/capacity of the smallest wire size in the circuit.)

1. Every dwelling unit or room shall have electric service capable of providing at least three (3) watts per square foot of total floor area (air conditioners, ranges, space heaters and motor drive equipment 1/8 hp. or over excluded).
2. Every lavatory, bathroom, kitchen or kitchenette, dining room, laundry room, furnace room shall contain at least one (1) approved ceiling or wall type electric light fixture equipped with sufficient lamps or tubes to provide no less than five (5) foot candles at floor level at center of room. Where more than one (1) fixture is used or required, they shall be equally spaced as far as practicable. (A switched outlet may be substituted for ceiling or wall fixture in dining room.)
3. Convenience outlet receptacles shall be provided as follows: (measurements are at room perimeter and include doors and door-alcoves.)

Living Room - 1 per 75 sq. ft. or major fraction (minimum of 2)

Dining Room - 1 per 75 sq. ft. or major fraction (minimum of 2)

Kitchen - 1 per 8 ft. or fraction of counter top and preparation area measured at rear (preparation area includes countertops, sinks, range tops, and all other similar areas at counter height.) Island type work

areas require one for each 8 ft. or less of length. Separate outlets shall be provided for refrigerators.

Dining Areas in Kitchen - 1 per 75 sq. ft. or major fraction.

Bedroom - 1 per 75 sq. ft. or major fraction (minimum of 2).

Laundry - 1 (when laundry equipment is present.)

Bathrooms and Lavatories - 1 (may be part of wall fixture if 72.0 inches or less from floor).

Other Habitable Rooms - minimum of 2.

Fixed appliances exceeding 1/8 hp. or 300 watts rating shall not be connected to general purpose branch circuits. Convenience outlets are to be located to present use of extension cords (NEC 400-8). All cords and temporary wiring not in compliance with NEC Article 400-A, and all exposed abandoned wiring shall be removed immediately upon the direction of the Building Inspector or DeForest Area Fire Chief, or DeForest Area Chief of Prevention/Inspection, DeForest Windsor Fire Department.

4. Switches or equivalent devices for turning on one (1) light in each room or passageway shall be located so as to conveniently control the area to be lighted.
5. Public halls and stairways in multiple dwellings shall be adequately lighted by natural or electric light at all times, so as to provide in all parts thereof at least two and one-half (2 1/2) foot candles of light at the tread or floor level. Halls and stairways in structures containing not more than three (3) dwelling units may be supplied with conveniently located switches, controlling the lighting system, which may be turned on when needed. Other occupancies require full-time or automatic time-switched lighting. When dwelling unit doors open to the outside a minimum of two and one-half (2 1/2) foot candles of illumination at the locks are required. Required parking areas for more than three (3) cars shall be lighted to a minimum of one (1) foot candle on all surfaces.
6. When the service in existing residential building is changed for any reason, the entire building electrical system shall be brought to the above minimum standards. The minimum replacement electrical service shall be:

100 amp for first two (2) dwelling units in a building.
50 amp for each additional unit.

Where electric heat and air conditioner over 20 amps are added or in place, additional capacity to cover this demand is required. All electrical work shall be done in accordance with the National Electric Code.

(h) Heating. All habitable rooms, kitchens and bathrooms shall be provided with permanently connected heating system. This heating system shall be maintained in a safe and efficient condition by a qualified person and a record kept at the premises showing the date of service and by whom. A minimum temperature of sixty-seven (67) degrees Fahrenheit shall be maintained in all habitable rooms, kitchens and bathrooms. The only exception to this provision is that the occupant of a room or an apartment may maintain a lesser temperature than is specified above as long as it does not affect the temperature in other habitable areas of the building.

(i) Illumination. Illumination shall be provided at all intersections of passageways, at all exits and at the head, foot and landings of every stairway in all buildings having three (3) or more apartments and/or lodging houses. The illumination shall be provided during the period commencing one (1) hour before sunset and ending one (1) hour after sunrise.

Every residential building that will accommodate three (3) or more families, twenty (20) persons or contains more than (4) lodging rooms shall have signs at the emergency exit doors or other places as may be necessary to direct the occupant to the exit doorways. The signs shall be red illuminated translucent exit signs bearing the word EXIT in plain letters not less than five inches (5") in height.

(j) The owner or operator of every residential building shall not provide, use, or permit to be used and the occupant shall not provide, use, or permit to be used, in any room other than a kitchen, any equipment designed or intended to be used for cooking or preparation of meals.

(k) Every owner of a multi-family dwelling shall make available to the occupants the names of two (2) or more persons that may be called to arrange for emergency work. The names with the telephone numbers shall be posted in a conspicuous place readily accessible to the occupants. The names with the telephone numbers shall be revised periodically to maintain accurate information at all times.

27.05 SAFE AND SANITARY MAINTENANCE OF PROPERTY.

(1) The purpose of this subsection is to recognize the private and public benefits resulting from the safe, sanitary and attractive maintenance of residential and nonresidential buildings, structures, yards, or vacant areas. Attractive and well-maintained property will enhance the neighborhood and Village and provide a suitable environment for increasing physical and monetary values.

(2) Every owner or operator shall improve and maintain all property under his/her control to comply with the following minimum requirements:

(a) All courts, yards, or other areas on the premises shall be properly graded to divert water away from the building. Adjacent ground surface shall be sloped away from the structure with a grading of at least one-half (1/2) inch per foot for a minimum of five (5) feet where possible or by other means such as eaves troughs and downspout extensions.

(b) All exterior property areas shall be kept free from noxious weeds as required under sec. 12.07 of this Code.

[Am. 16-15, Eff. 06-17-16]

(c) All exterior property areas shall be properly maintained in a clean and sanitary condition free from debris, rubbish or garbage, physical hazards, rodent harborage and infestation, and animal feces. All animal feces shall be removed within twenty-four (24) hours.

(d) Fences, other minor construction, walks, driveways, parking areas and similar paved areas shall be properly maintained in a safe, sanitary and substantial condition. Approved walks shall provide convenient all weather access to buildings.

(e) Exterior surfaces of buildings and structures not inherently resistant to deterioration shall be treated with a protective coating of paint or other suitable preservative which will provide adequate resistance to weathering and maintain an attractive appearance. Any exterior surface treated with paint or other preservative shall be maintained so as to prevent chipping, cracking or other deterioration of the exterior surface or the surface treatment and to present an attractive appearance. All paint or other preservative shall be applied in a workmanlike fashion.

(f) Landscaping, plantings and other decorative surface treatments, including common species of grass, shall be installed if necessary and maintained to present an attractive appearance in all court and yard areas. Grass shall be maintained to a height not to exceed twelve inches (12") in length. Plantings shall be maintained so as not to present hazards to adjoining properties or to persons or vehicles traveling on public ways and shall be maintained so as to enhance the appearance and value of the property on which located and thereby the appearance and value of the neighborhood and Village. The Village, after due notice to the property owner, will cause to be cut or trimmed nonconforming areas and place said cost as a special assessment/charge due against the property.

[Am. 16-15, Eff. 06-17-16]

(g) 1. Every interior floor, wall and ceiling, including door and window assemblies, shall be kept clean and in good repair, and shall be capable of affording privacy. Any sagging or bulging shall be properly repaired to a level or plumb position. All surfaces shall be free from serious cracking, irregularities, and peeling paint. A waterproof and hard surface shall be provided in spaces subject to moisture. All surface repairs shall be completed to closely match the existing surface color and texture. Floor surfacing shall provide ease of maintenance and durability appropriate for the use of the room.

2. Every foundation, exterior wall, floor and roof shall be reasonably weather tight, watertight and rodent proof and shall be kept in proper repair and shall be capable of affording privacy. Any sagging or bulging shall be properly repaired to a level or plumb position. All chimneys and breeching shall be so constructed and maintained so as to insure that it safely and properly removes the products of combustion from the building.
3. Every gap allowing the accumulation of dirt or other objectionable matter in bathing, toilet, or food preparation areas shall be tightly sealed with an impervious and cleanable material.

(h) Every window, exterior door, interior door and basement hatchway shall be reasonably weather tight, watertight and rodent proof and kept in proper repair. All door and window hardware shall be installed and maintained in proper working condition.

(i) Every inside and outside stair, every porch, and every appurtenance thereto shall be so constructed as to be safe to use and capable of supporting the load that normal use may cause to be placed thereon, and shall be kept in proper condition and repair and shall present an attractive appearance. All interior and exterior stairs, steps, porches and every appurtenance thereto shall comply with the requirements specified in Wis. Admin. Code secs. Comm. 20.04 or Comm. 51.16, 51.161, 51.162 and 51.164 as dictated by the type of occupancy in the building.

(j) Every plumbing fixture and water and waste pipe shall be properly installed and maintained in good working condition, free from defects, leaks and obstructions.

(k) Every water closet compartment floor surface and bathroom floor surface shall be properly constructed and maintained so as to be reasonably impervious to water and so as to permit such floor to be easily kept in clean and sanitary condition.

(l) Every supplied facility, piece of equipment, or utility shall be so constructed, installed and maintained so that it will function in a proper working condition.

The owner of any dwelling or apartment in which a cooking stove and/or refrigerator are furnished for the use of the tenants as part of rental agreement shall keep such cooking stove and/or refrigerator in good mechanical condition.

It shall be the responsibility of the tenant to maintain supplied facilities in a clean and sanitary condition when contained within the tenant's dwelling unit.

(m) No owner, operator or occupant shall cause any service, facility, equipment, or utility which is required under this chapter to be removed from or shut off from or discontinued for any occupied dwelling, dwelling unit or lodging room let or occupied by him/her except for such temporary interruption as may be necessary while actual repairs are in process, or during temporary emergencies when discontinuance of service is approved by an authorized inspector.

(n) Abandoned Fuel Oil Tanks. Abandoned fuel oil tanks shall be removed from the building.

(o) The DeForest Area Fire Chief of Prevention/ Inspections or the DeForest Area Fire Chief shall have the authority under this chapter to enter and commence a structural fire inspection. Any violations found should be remedied by the owner of the property. If the owner does not comply, penalties may be assessed under this chapter. This is to be considered a separate offense and in addition to any State Code violations.

(p) All unpaved driveways and parking areas shall be maintained in a dust-free condition and shall be graded so that no potholes exist. No stone or other materials may be deposited in the street.

(q) Removal of Debris.

1. No person shall dispose of rocks, trees, stumps, waste building material or other debris from land development, building construction, street grading, or installation of underground utilities, upon the surface of any land in the Village of DeForest except at approved disposal sites.

2. No land owner shall allow an accumulation of rocks, trees, stumps, waste building material or other debris from land development, building construction, street grading, or installation of underground utilities upon the surface of his land for a period of more than ten (10) days.
- (3) All vacant lands within the Village shall be leveled off to permit the mowing of weeds and the removal of other debris, including, but not limited to stones, bottles, wire, and other debris that will interfere with mowing operations. All lands in the Village of DeForest shall be kept in compliance with sec. 12.07 of this Code.
[Am. 16-15, Eff. 6-17-17]

27.051 PLANNED NATURAL LANDSCAPING.

[Cr. 16-15, Eff. 06-17-17]

(1) Definitions.

- (a) "Native plants" means those grasses (including prairie grasses), sedges (solid, triangular-stemmed plants resembling grasses), and forbs (flowering broadleaf plants) native to or naturalized to Wisconsin. Native plants do not include noxious weeds and turf grasses.
- (b) "Ornamental Grasses and Groundcovers" means grasses and groundcovers not indigenous to Wisconsin, but does not include turf grass and noxious weeds.
- (c) "Planned natural landscaping" means a planned, intentional and maintained planting of native plants, ornamental grasses and groundcovers, rain gardens, shrubs and trees. Planned natural landscaping does not include any species of turf grasses and is subject to the restrictions set forth under sec. 12.07 of this Code, except that the twelve inch (12") height restriction shall not apply to grasses that qualify as native plants. Planned natural landscaping does not include gardens.
- (d) "Rain garden" means a native plant garden that is designed not only to aesthetically improve properties, but also to reduce the amount of storm water and accompanying pollutants from entering streams, rivers and lakes.
- (e) "Turf grass" means any grasses commonly used in regularly cut lawns or play areas, including bluegrass, fescue or rye grass blends.

(2) Planned natural landscaping permitted. Planned natural landscaping is permitted in lieu of a lawn subject to the following:

- (a) All turf grass must be removed and replaced by native plants, ornamental grasses and groundcovers, trees and shrubs actively planted by human or mechanical means.
- (b) No planned natural landscaping is permitted within ten feet (10') of any sidewalk or lot line. This restriction does not apply to lot lines:

- i. That abut a public park;
 - ii. That abut a prairie area or other natural area; or
 - iii. In which a sight-tight fence runs along the lot line.
- (c) All planned natural landscaping must be actively maintained and kept free of weeds and turf grass.

27.06 FIXING THE RESPONSIBILITY OF OWNERS, OPERATORS, AND OCCUPANTS.

- (1) The purpose of this subsection is to fix the responsibility of owners, operators and occupants of residential buildings.
- (2) The responsibility of owners, operators, and occupants of residential buildings is as follows:
 - (a) Every owner of a residential building containing two (2) or more dwelling units shall be responsible for maintaining in a clean, proper and sanitary condition the shared or public areas of the residential building and premises thereof.
 - (b) Every occupant of a residential building shall keep in a clean, proper and sanitary condition that part of the residential building and premises thereof which he/she occupies and controls. Every occupant of a residential building shall dispose of all his/her refuse, recycling and garbage in the containers required by the DeForest Municipal Code.
 - (c) Every owner of a residential building shall be responsible for hanging, installing, and maintaining of all screens and double or storm doors and windows whenever the same are required under the provisions of the DeForest Municipal Code.
 - (d) Every occupant of a dwelling containing a single dwelling unit shall be responsible for the extermination of any insects, rodents, or other pests therein or on the premises and every occupant of a dwelling unit in a residential building shall be responsible for such extermination whenever his dwelling unit is the only one infested. Notwithstanding the foregoing by failure of the owner to maintain a residential building in a reasonable condition extermination shall be the responsibility of the owner. Whenever infestation exists in two (2) or more of the dwelling units or lodging rooms in any residential building or in the shared or public parts of any residential building, extermination thereof shall be the responsibility of the owner.
 - (e) Every occupant of a dwelling unit shall keep all plumbing fixtures therein in a clean and sanitary condition and shall be responsible for the exercise of reasonable care in the proper use and operation thereof.
 - (f) The owner or operator shall not occupy or let to another for occupancy any space in a residential building unless it is clean, sanitary, fit for human occupancy, complies with the requirements of the DeForest Municipal Codes, the Village of DeForest Building Inspector and/or the DeForest Fire Inspector.
 - (g) Every owner of a rental unit shall make available to the occupants the names of two (2) or more persons that may be called to arrange for emergency work. The names with the telephone numbers shall be posted in a conspicuous place readily accessible to the

occupants. The names with the telephone numbers shall be revised periodically to maintain accurate information at all times.

27.07 DESIGNATION OF UNFIT BUILDINGS OR STRUCTURES AND LEGAL PROCEDURES OF REPAIR OR RAZING.

(1) The purpose of this section is to provide for the designation and repair or razing of those buildings or structures which are so dilapidated, unsafe, dangerous, unhygienic, inadequately maintained or lacking in basic equipment, facilities, light, ventilation, and heating so as to constitute a menace to the occupants or to the public.

(2) Any building or structure which shall be found to have any of the following defects may be designated as unfit for human habitation and in need of repairs or razing and so placarded by the Building Inspector. Legal notice shall be served upon the owner and on the operator of any building:

(a) Which is so damaged, decayed, dilapidated, dangerous, unsanitary, unsafe, or vermin infested that it creates a serious hazard to the health or safety of the occupants or of the public.

(b) Which lacks illumination, ventilation, heating, basic equipment or sanitary facilities adequate to protect the health, safety, or general welfare of the occupants or of the public.

(c) Which, because of its general condition, location, or appearance, is a blighting influence or causes decreasing physical or monetary value of property in the neighborhood.

(3) Any building or structure or part thereof designated and placarded by the Building Inspector as unfit for human habitation and in need of repairs or razing shall be vacated within a reasonable time as ordered by the Building Inspector.

(4) No building or structure or part thereof which has been designated and placarded as unfit for human habitation and in need of repairs or razing shall again be used for human habitation until written approval is secured from, and such placard is removed by, the Building Inspector. The Building Inspector shall remove such placard whenever the defect or defects upon which the designation and placarding action were based have been eliminated.

(5) No person shall deface or remove the placard from any building or structure or part thereof which has been condemned as unfit for human habitation and placarded as such.

(6) Any building or structure or part thereof designated as unfit for human habitation and in need of repairs or razing by the Building Inspector, which in the opinion of the Building Inspector, would be unreasonable to repair shall be razed or removed upon legal written service of the order of the Building Inspector. If the owner shall fail or refuse to comply with the order, the Building Inspector shall refer such violation to the Village Attorney who will start any legal proceedings necessary to cause such building to be razed or removed as a violation of this chapter.

(7) (a) Any building which has been vacant for more than thirty (30) days for any reason and has been damaged, illegally entered or vandalized shall be secured against entry. This shall include adequately boarding up doors, windows and other openings in a workmanlike manner so as to prevent illegal entry, vandalism or damage.

(b) The building utilities, plumbing, electrical and heating systems in vacant buildings shall be maintained at all times in a safe condition or inactivated so as to prevent the possibility of damage to the structure by the failure of such utilities and so as to prevent hazardous and dangerous conditions.

(c) When any building has been damaged by fire or other cause and when hazardous or dangerous conditions exist and when such building cannot be secured by conventional locking or boarding up of windows and doors, such building shall be fenced off so as to prevent access and entry to the structure and the area immediately surrounding the structure within three (3) days of the damage by fire or other cause.

27.08 ADMINISTRATION AND ENFORCEMENT.

(1) The purpose of this section is to provide for the administration and enforcement of this chapter.

(2) The office of the Village of DeForest Building Inspector is hereby created to enforce this chapter. The Building Inspector shall be under the supervision of the Village of DeForest President and the Village of DeForest Planning and Zoning Chairperson. Therefore, for purposes of enforcement of this chapter, he/she shall have the same powers as the officer referred to in the Wisconsin State Statutes as the Building Inspector.

(3) The duties of the Building Inspector, Village Board President and the Chairperson of the DeForest Planning and Zoning Commission shall be as follows:

(a) Provide and maintain a public information bureau relative to all matters arising out of this chapter.

(b) Maintain permanent and current records of all matters arising out of this chapter.

(c) Conduct a systematic inspection of buildings, structures and land to determine compliance with the terms of this chapter, all state laws, Village Ordinances and lawful orders relating to the alteration, repair, maintenance, safety and use of existing buildings and permanent building equipment and take such action as necessary to secure such compliance, including: the withholding of building permits, imposition of forfeitures and injunctive action. They shall have full power to pass upon any question arising under the provisions of the housing, building, plumbing, electrical and heating codes and zoning procedures, subject to conditions contained herein.

(d) Initiate, direct, and review from time to time a study of the provisions of this chapter and make recommendations to the Village Board by the 1st of May each year on such matters that will improve this chapter or its systematic enforcement.

(e) Coordinate such inspection and code compliance programs with inspections or improvement programs of other neighborhood groups whose purpose is neighborhood improvement.

(4) (a) Any person who shall violate any of the provisions of this chapter shall be subject to a forfeiture of not less than \$50.00 and not more than \$500.00 for each violation. Each day a violation continues or occurs shall constitute a separate offense.

[Am. 22-20, Eff. 8-17-22]

(b) Except as otherwise provided by law, any action to collect a forfeiture for a violation of this chapter may be commenced by the issuance of a citation pursuant to §§66.0113 and 800.02, *Wis. Stats.*. Any citations so issued shall be in the form of the Wisconsin Uniform Municipal Citation.

(c) Citations for violations of this chapter may be issued as provided in sec. 1.10 of this Code.

[Am. 14-13, Eff. 04-15-14]

(d) The issuance of a citation under this section shall not preclude the Village or any individual from commencing any action against a violator under any other authority of law.

[Repl. & Recr. 96-41, Eff. 10-21-96]

27.09 [Repealed 96-41, Eff. 10-21-96]

27.10 SEVERABILITY. If any provision of this chapter is invalid or unconstitutional or if the application of this chapter to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this chapter which can be given effect with the invalid or unconstitutional provisions or applications.

27.11 ABROGATION AND GREATER RESTRICTIONS. It is not intended by this chapter to repeal, abrogate, annul, impair or interfere with any existing easements, covenants, deed restrictions, agreements, rules, regulations, chapter or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

27.12 INTERPRETATION. In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements and shall not be deemed a limitation or repeal of any other power granted by the Wisconsin Statutes. Where any terms or requirements of this chapter may be inconsistent or conflicting, the more restrictive requirement or interpretation shall control.

CHAPTER 28
CODE OF ETHICS
[Repl & Recr. 22-06, Eff. 2-25-22]

28.01	Declaration of Policy.....	28-1
28.02	Definitions.....	28-1
28.03	Statutory Standards of Conduct.....	28-2
28.04	Maintenance of Public Trust	28-3
28.05	Conflicts of Interest	28-3
28.06	Ethics Board	28-5
28.07	Advisory Opinions	28-6
28.08	Violations and Enforcement.....	28-6
28.10	Sanctions	28-8
28.11	Recovery of Expenses.....	28-9
28.12	Distribution of Ethics Code.....	28-9

28.01 DECLARATION OF POLICY.

(1) The proper operation of democratic government requires that public officials and employees be responsible to the people in the performance of their official duties; that their discretion be exercised in a manner that promotes the public interest over any personal interest they may hold; that government decisions and policies be made in proper channels of the governmental structure; that public office not be used for personal gain; and that the public have confidence in the integrity of its government.

(2) Public officers and employees hold positions of public trust, and should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority. They should not exceed their lawful authority or breach the law or ask others to do so.

(3) Public officers and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitutions of the United States and Wisconsin, carry out impartially the laws of the nation, state and municipality and discharge faithfully the duties of their office regardless of personal considerations, always recognizing that the public interest must be their prime concern.

(4) In recognition of the foregoing goals, there is hereby established in this chapter a Code of Ethics for all Village of DeForest officers and employees, whether elected or appointed, paid or unpaid, including members of all boards, committees and commissions created by authority of the Village. The purpose of this Code of Ethics is to establish standards for ethical conduct for all such officers and employees.

28.02 DEFINITIONS. As used in this chapter, the following terms shall have the following meanings:

(1) "Complainant" means any person filing a verified complaint with the ethics board alleging that a public officer or employee has violated one or more provisions of this chapter.

(2) "Confidential Information" means information obtained in the course of holding public office or employment, or as a contractor to the Village, which is not available to members of the public and which the officer or employee knows, or reasonably should

know, is not authorized to be disclosed except to designated individuals or bodies, including written and non-written information.

(3) "Employee" means any person holding an employment position established by the Village, and includes full-time, part-time, seasonal and limited term employees.

(4) "Financial Interest" means any interest which yields, or which might reasonably be expected to yield, directly or indirectly, a monetary or other material benefit to the officer or employee.

(5) "Immediate Family Member" means anyone related as a parent, grandparent, child, grandchild, brother, sister, step-parent, step-sibling, step-child, parent-in-law, grandparent-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, uncle, aunt, niece, nephew, spouse, domestic partner fiancé or fiancée.

(6) "Officer" means any person, whether elected or appointed, including any third-party contractor, holding the following offices of the Village:

- (a) President
- (b) Trustee
- (c) Administrator
- (d) Deputy Administrator
- (e) Treasurer/Finance Director
- (f) Clerk
- (g) Deputy Treasurer
- (h) Deputy Clerk
- (i) Assessor
- (j) Any member appointed to a Village committee, commission, authority or board.

(7) "Person" means any individual, corporation, partnership, joint venture or other entity.

(8) "Personal Interest" includes any interest arising from a blood, marriage or domestic partnership relationship or from a close business, personal or political association, which might reasonably be expected to generate bias or motivate self-serving decision-making in the performance of official duties.

(9) "Respondent" means a public officer or employee accused of violating this chapter in a verified complaint filed with the ethics board.

(10) "Verified complaint" means a written complaint signed under oath or affirmation by the complainant attesting to the truth of the factual allegations in the complaint. Allegations may be made on information and belief provided that the information relied upon in forming the belief is set forth in sufficient detail in the verified complaint for the board to determine whether the information is reasonably reliable.

28.03 STATUTORY STANDARDS OF CONDUCT. The following provisions of the Wisconsin Statutes are considered an integral part of any Code of Ethics. Accordingly, any violation of the following statutes, as amended from time to time, shall be deemed a violation of this chapter:

- (1) Sec. 19.59 Code of Ethics for local government officials.
- (2) Sec. 946.10. Bribery of Public Officers and Employees.
- (3) Sec. 946.11. Special Privileges from Public Utilities.
- (4) Sec. 946.12. Misconduct in Public Office.
- (5) Sec. 946.13. Private Interest in Public Contract Prohibited.

28.04 MAINTENANCE OF PUBLIC TRUST.

(1) USE OF PUBLIC ASSETS. No officer or employee of the Village shall use or permit the use of any Village time, funds, personnel, equipment or other personal or real property for the private use of any person, unless the use is available to the general public, and then only to the extent and upon the terms that such use is available to the general public.

(2) OBLIGATIONS TO CITIZENS. No officer or employee shall grant any special consideration, treatment or advantage to any citizen beyond that which is available to all similarly situated citizens.

(3) DISCLOSURE OF CONFIDENTIAL INFORMATION. No officer or employee shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the Village, nor shall such information be used to advance the financial or other private interests of the officer or employee or others.

(4) EMPLOYMENT OF ELECTED OFFICERS. No person holding elective office in the Village shall be eligible for employment in any paid position with the Village, except as an election official.

28.05 CONFLICTS OF INTEREST.

(1) ACQUIRING INCOMPATIBLE FINANCIAL INTERESTS. No officer or employee, whether paid or unpaid, shall engage in, or acquire a financial interest in, any business or transaction in his or her personal capacity, which is, or is likely to become, in substantial conflict with the proper discharge of the officer's or employee's public duties or which would tend to impair his or her independence of judgment or action in the performance of official duties.

(2) INCOMPATIBLE EMPLOYMENT. No officer or employee shall engage in or accept private employment or render services for private interest when such employment or service is, or is likely to become, in conflict the proper discharge of official duties or would tend to impair independence of judgment or action in the performance of official duties

(3) GIFTS AND FAVORS.

(a) No officer or employee or an officer's or employee's spouse or domestic partner, shall accept any gift, whether in the form of service, loan, thing or promise, from any person which may tend to impair, or which might reasonably be expected to cause public concern that it would impair, his or her independence of judgment or action in the performance of his or her duties. Any such officer, employee, spouse or domestic partner who receives, directly or indirectly, any gift or gifts having a net aggregate value of more than One Hundred Dollars (\$100.00) within any calendar year from any person not a member of his/her immediate family who is known by said officer, employee, spouse or domestic partner to be

interested, directly or indirectly, in any manner whatsoever in current or prospective business dealings with the Village upon which the officer or employee has any influence or input or over which the officer or employee may be called upon to exercise any discretion, shall disclose the nature and value of such gifts to the ethics board within 15 days after the gift or gifts are received and before taking any official action on any matter in which the person giving the gift is interested.

(b) No officer or employee may solicit or accept, either directly or indirectly, from any person or organization, money or anything of value if it could reasonably be expected to influence, or to be interpreted as an attempt to influence, the recipient's official actions or judgments, or be considered a reward for any action or inaction on the part of the officer or employee. This provision shall not apply to lawful campaign contributions provided that they are timely reported to the extent required by law and any such contributions from persons having applications, contracts or other such matters pending with the Village at the time of the contribution are reported to the ethics board within 30 days thereafter and before the recipient takes official action with respect to such application, contract or matter. No officer or employee shall solicit or make any campaign contribution while on Village property or solicit a contribution from a Village officer or employee during their normal work hours or any other time when the officer or employee is performing official functions.

(c) No officer or employee or his or her spouse or domestic partner shall accept hospitality if, after consideration of the surrounding circumstances, it could reasonably be concluded that the provision of such hospitality was materially motivated by the fact that the guest, or a member of the guest's immediate family, was a Village officer or employee. This paragraph does not prohibit:

1. Participation by officers and employees in bona fide public celebrations, grand openings, groundbreaking ceremonies, open houses, informational meetings and similar events;
2. The acceptance of hospitality provided by the Village or by another Village officer or employee; or
3. Candidates for elective office from accepting hospitality from citizens for the purpose of supporting the candidate's campaign, provided the candidate complies with all applicable campaign finance disclosure laws.

(4) REPRESENTING PRIVATE INTERESTS BEFORE VILLAGE AGENCIES OR COURTS. No officer or employee shall appear on behalf of private interests of any other person before any board, committee or commission of the Village. No officer or employee shall represent private interests of any third party in any action or proceeding against the interests of the Village. This paragraph shall not be construed to prohibit the appearance of officers or employees in any case when compelled by subpoena or other legal process. A Village Board member may appear before Village Boards, Commissions, and Committees on behalf of constituents in the course of the member's duties as a representative of the electorate.

(5) AD HOC COMMITTEES. The provision of this section shall not apply to individuals serving only on an ad hoc committee charged with the responsibility of addressing an issue or topic in which that individual, or the employer or a client of that

individual, has an interest so long as the nature of the interest is reported to the ethics board prior to the individual participating in official action as part of the committee.

(6) CONTRACTS WITH THE VILLAGE. No Village officer or employee shall use his or her position in a manner that produces, or might be expected to produce, a financial benefit to the officer or employee, a member of his or her immediate family or an organization in which he or she has a financial interest. This subsection does not apply to official action in the process of enacting legislation of general applicability within the Village.

(7) DISCLOSURE OF PRIVATE INTERESTS.

(a) Any member of the Village Board who has a financial interest or personal interest in any legislation, permit, approval or other official action pending before the Village Board shall disclose on the records of the Village Board or the ethics board the existence of such interest.

(b) Any officer or employee who has a financial interest or personal interest in any proposed action of the Village Board or of any board, commission or committee upon which the officer or employee has any influence or input, or of which the officer or employee is a member, that is to make a recommendation or decision upon any item which is the subject of the proposed action shall disclose on the records of the Village Board or the appropriate board, commission, committee, or the ethics board the existence of such interest.

28.06 ETHICS BOARD.

(1) APPOINTMENT AND TERM. There is hereby created an ethics board to consist of five (5) members who shall serve without compensation. Members shall be appointed by the Village President, subject to confirmation by the Village Board, for terms of three (3) years, except that the term of any Village trustee appointed to the board shall expire upon expiration of his or her current term of office as trustee.

(2) QUALIFICATION OF MEMBERS. The membership of the ethics board shall, include at least one Village trustee and three (3) citizen members. The Village President, in making appointments, shall make reasonable efforts to appoint at least one attorney who is a member in good standing of the State Bar of Wisconsin who is willing to serve. All citizen members who are not licensed attorneys shall be residents of the Village. No member of the ethics board, except the Trustee member, shall serve on any other Village committee, commission or board, or be the spouse of any member of a Village committee, commission or board.

(3) LEGAL SERVICES TO BOARD. The Village Attorney shall furnish the board with whatever legal assistance is necessary in carrying out its functions.

(4) OFFICERS. The ethics board shall elect its own Chairperson, Vice Chair, and Secretary and may adopt written rules of procedure. The Secretary shall keep minutes of the meetings of the board, but may delegate that responsibility to a qualified member of the Village staff.

(5) CODE AMENDMENTS. The ethics board shall review the provisions of this chapter at least once every 5 years, and may make recommendations to the Village Board with respect to amendments to this chapter as it determines appropriate from time to time.

28.07 ADVISORY OPINIONS. Any officer, employee or candidate for office may request an opinion from the ethics board or Village Attorney as to the application of this chapter to any matter in which such person is or may become involved. The request shall be made in writing and shall state all of the facts relevant to the question posed. If all of the relevant facts are included in the request, and the requester of the opinion acts in accordance with the advice of the board or Village Attorney, the requester shall be entitled to a rebuttable presumption of intent to comply with this chapter. Advisory opinions issued as provided in this section shall be confidential to the extent provided in §19.59(5), Wis. Stats.

28.08 VIOLATIONS AND ENFORCEMENT.

(1) **JURISDICTION.** The ethics board shall have administrative and enforcement jurisdiction over this chapter.

(2) COMPLAINT PROCEDURE.

(a) **Filing of Complaints.** Subject to par. (d), any person may file a verified complaint alleging facts demonstrating a violation of this chapter by a Village officer or employee. The complaint shall include a reference to each provision of this chapter believed to have been violated. The complaint shall be filed with the Village Clerk who shall promptly provide copies to all members of the ethics board, the Village Attorney and the public officer or employee named as the respondent in the complaint.

(b) **Confidential Information.** In the event the complaint includes references to confidential information as defined in sec. 28.02(2), the complainant shall identify such information to the Clerk at the time of filing. The Clerk and the Ethics Board shall maintain the confidentiality of the identified portion of the complaint until such time as the Clerk shall determine that the public interest in disclosure outweighs the public interest in maintaining confidentiality applying the standards of the Wisconsin Open Meeting and Public Records laws. If the Ethics Board finds that the confidential information is immaterial to the alleged violation, it may proceed to review the sufficiency of the complaint under par. (c), redacting the confidential information from the complaint in the public record. Absent such a finding, the Board may make such orders affecting the timing, bifurcation or other procedural matters as it deems necessary to maintain the confidentiality of the information while proceeding to resolve the complaint to the extent practicable.

(c) **Sufficiency of Complaint.** The board shall meet to review the complaint to determine whether the evidentiary facts properly alleged, along with the reasonable inferences that may be drawn from the facts alleged, would, if true, establish a violation of this chapter. If the board finds the allegations would not constitute a violation of this chapter, or that the complaint is otherwise insufficient to demonstrate a violation, it shall dismiss the complaint. If the board is satisfied that the complaint establishes probable cause to believe a violation may have occurred, it shall schedule a hearing on the complaint. Probable cause shall be found only if, from the well-pleaded allegations of a verified complaint, and any reasonable inferences therefrom, the board determines to a reasonable probability that a violation of this chapter has been committed by the Village official or employee. A reasonable probability goes beyond a mere possibility of a violation and may not rest upon speculation by either the complainant or the board.

(d) Limitations.

1. Complaints. No complaint alleging a violation of this chapter may be filed during the period beginning 120 days before a spring election, or during the period commencing on the date of the order of a special election under §8.50, Wis. Stats., and ending on the date of that election, against a candidate who files a declaration of candidacy to have his or her name appear on the ballot at that election.

2. The Ethics Board shall not take action on any complaint unless the act or omission complained of occurred within three (3) years prior to the date of filing.

(3) PRE-HEARING PROCEDURES.

(a) Scheduling. If the board finds probable cause, the board shall consult with the complainant and respondent and set a date for an evidentiary hearing on the complaint. The board may order the exchange of witness lists and exhibits or take other actions designed to promote fairness and efficiency in the hearing process.

(b) Disqualification. Either the complainant or respondent may request the recusal of any member of the board based on an actual or perceived conflict of interest. Such requests shall be filed with the board not less than 20 days prior to the date of any scheduled evidentiary hearing. The board shall meet to consider the facts presented by the requesting party and determine whether to grant or deny the request. In the event the board determines that recusal is required, it shall promptly request that the Village President appoint a temporary member to replace the disqualified member, and any hearing scheduled shall be postponed if necessary to allow for such appointment. A member shall be recused in any case where the member or a member of his or her immediate family is a complainant or material witness.

(4) GENERAL RULES.

(a) Notice. The complainant and the respondent shall be provided at least 10 days' notice to appear before a scheduled hearing on the complaint, unless both parties consent to an earlier hearing date. Public notice of the meeting shall be provided in accordance with the Wisconsin Open Meetings Law.

(b) Hearing Examiner. The chairperson of the board shall serve as the hearing examiner, or may designate another member or the Village Attorney as the hearing examiner to conduct the hearing and make procedural and evidentiary rulings. The hearing examiner shall have the power to:

1. Grant or deny requests for extensions of time to comply with deadlines established by the board and rule on other procedural or ministerial issues;

2. Issue subpoenas to compel the attendance of witnesses at the request of either party for service by such party at the party's expense;

3. Administer oaths and affirmations;

4. Regulate the course of the hearing and hold conferences for simplification of the issues;

5. Admit or exclude proffered evidence; and
6. Prepare proposed findings of fact and conclusions of law for approval by the board.

(c) *Ex Parte* Communications. No person may communicate directly or indirectly, in any manner with any member of the board concerning any pending complaint other than during properly noticed public meetings of the board. This paragraph does not prohibit communications that are limited to procedural, scheduling or other ministerial matters that do not address the substance of the complaint. Any member of the board receiving any communication prohibited by this paragraph shall provide the substance of the communication to the board and both parties at or before the next scheduled meeting of the board.

(d) Representatives. The complainant and respondent shall have the right to appear through an attorney at their own expense.

(5) CONDUCT OF HEARINGS.

(a) General. The board shall conduct an evidentiary hearing on the complaint which shall conform with the common law requirements of due process, including the rights of the complainant and respondent to proper notice, an opportunity to be heard, an opportunity to cross-examine witnesses and to present testimony and other evidence in support of their respective positions.

(b) Witnesses. The testimony of all witnesses shall be provided under oath administered by the hearing examiner or another qualified person.

(c) Rules of Evidence. The hearing examiner is not bound by common law or statutory rules of evidence. The hearing examiner shall admit all testimony having reasonable probative value, but shall exclude immaterial, irrelevant, unreliable or unduly repetitious testimony. The hearing examiner shall give effect to the rules of privilege recognized by law. If the hearing examiner is not the Village Attorney, he or she may consult with the Village Attorney on evidentiary issues, including but not limited to issues of materiality and privilege. The provisions of this chapter shall be deemed part of the evidentiary record without the need for action by either party.

(6) FINDINGS AND CONCLUSIONS. Within a reasonable period of time after the conclusion of the hearing, the board shall make written findings of fact and conclusions of law and issue its decision on the complaint. The findings of fact shall be based upon the evidence received at the hearing and shall be supported by substantial evidence. No finding of fact may be based solely on hearsay other than hearsay that would be admissible in a civil action under the Wisconsin Rules of Evidence. Any member of the board may issue a minority report dissenting from the findings, conclusions or decision of the board.

28.10 SANCTIONS. Violation of any provision of this chapter should raise conscientious questions for the officer or employee concerned as to whether voluntary resignation or other action is indicated to promote the best interests of the Village. Violation of any provision of this chapter may constitute a cause for suspension, removal from appointive office or employment, or other disciplinary action. As an alternative or an addition to the sanctions imposed herein, the board may impose a non-reimbursable forfeiture of not

less than twenty-five dollars (\$25) nor more than five hundred dollars (\$500) against the officer or employee for each violation of this chapter found by the board for any violation other than a violation subject to §28.05(2). Any forfeiture assessed by the board that is not paid within 30 days after the date of the board's decision shall be referred to the Village Attorney for appropriate collection action.

28.11 RECOVERY OF EXPENSES. Any officer or employee who is successful in defending the charges made in a complaint under this chapter may file an application to the board for reimbursement of his or her reasonable legal expenses incurred preparing and presenting the defense. The board shall review the application and make a written recommendation to the Village Board on such request. The Village Board shall determine whether such reimbursement is appropriate and the amount thereof to be paid.

28.12 DISTRIBUTION OF ETHICS CODE. The Village Clerk shall cause a copy of this Code of Ethics to be distributed to every public officer and employee of the Village within thirty (30) days after enactment, to each candidate for elective office upon filing of nomination papers for such office, and to each new employee or appointive officer upon assuming their office or position.