

Chapter 38 ZONING

ARTICLE I. IN GENERAL

Sec. 38-1. Authority.

These regulations are adopted under the authority granted by Wis. Stats. § 62.23(7).

(Ord. No. 1-04, § I(1), 3-1-2004)

Sec. 38-2. Purpose.

The purpose of this chapter is to promote the health, safety, morals, prosperity, aesthetics and general welfare of the village.

(Ord. No. 1-04, § I(3), 3-1-2004)

Sec. 38-3. Intent.

It is the general intent of this chapter to regulate and restrict the use of all structures, lands and waters; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as to lessen congestion in and promote the safety and efficiency of the streets and highways; secure safety from fire, flooding, panic and other dangers; provide adequate light, air, sanitation and drainage; prevent overcrowding; avoid undue population concentration; facilitate the adequate provision of public facilities and utilities; stabilize and protect property values; further the appropriate use of land and conservation of natural resources; preserve and promote the beauty of the village; and implement the village comprehensive plan or plan components. It is further intended to provide for the administration and enforcement of this chapter and to provide penalties for its violation.

(Ord. No. 1-04, § I(4), 3-1-2004)

Sec. 38-4. Definitions.

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

Abutting means having a common property line or district line.

Accessory building means a building or portion of a building subordinate to the main building and used for a purpose customarily incidental to the permitted use of the main building or the use of the premises. When an accessory building is a part of the main building or is substantially attached thereto, the side yard and rear yard requirements of the main building shall be applied to the accessory building.

Alley means a street or thoroughfare less than 21 feet wide and affording only secondary access to abutting property.

Apartment means a portion of a multiple dwelling used as a separate housing unit and having cooking facilities and a private bath.

Apartment house. See *Dwelling, multifamily.*

Basement means a story partly underground which, if occupied for living purposes, shall be counted as a story for purposes of height measurement.

Billboard means an advertising device, either freestanding or attached to a building, which is used to display information not related to the use or ownership of the establishment on the property upon which it is located.

Boardinghouse means a building other than a hotel where lodging and meals are furnished for compensation for three or more persons not members of a family.

Building means any structure used, designed or intended for the protection, shelter, enclosure or support of persons, animals or property. When a building is divided into separate parts by unpierced walls extending from the ground up, each part shall be deemed a separate building.

Building, alterations of. See *Structural alterations.*

Building area means the total living area bounded by the exterior walls of a building at the floor level, but not including a basement not qualified for living area under the state building code, a garage, an unfinished and unheated porch and an attic.

Building, height of, means the vertical distance from the average curb level in front of the lot or the finished grade at the building line, whichever is higher, to the highest point of the coping of a flat roof, to the deck line of a mansard roof, or to the average height of the highest gable of a gambrel, hip or pitched roof.

Certificate of occupancy means a written statement issued by the building inspector which permits the use of a building or lot or a portion of a building or lot and which certifies compliance with the provisions of this chapter for the specified use and occupancy.

Conditional use means a use of a special nature so as to make impractical its predetermination as a principal use within a district.

Condominium means the ownership of single units in a multi-unit structure or of single units on a tract with more than one such unit where the land or other common areas and facilities are owned jointly.

Dwelling means:

- (1) *One-family dwelling* means a detached building designed for or occupied exclusively by one family.
- (2) *Two-family dwelling* means a detached or semi-detached building designed for and occupied exclusively by two families.
- (3) *Multifamily dwelling* means a building or portion thereof designed for and occupied by more than two families, including tenement houses, row houses, apartment houses and apartment hotels.

Dwelling unit means a separate housekeeping unit, designed and used for occupancy by a single family.

Family means any number of persons related by blood, adoption or marriage, or not to exceed four persons not so related, living together in one dwelling as a single housekeeping entity.

Farm means land consisting of five acres or more on which produce, crops, livestock or flowers are grown primarily for off-premises consumption or use.

Floor area means:

- (1) For residential uses, the gross horizontal area of the floor of a dwelling unit, exclusive of unfinished and unheated porches, balconies, garages and basements qualified for living area under the state building code, measured from the exterior faces of the exterior walls or from the centerlines of walls or partitions separating dwelling units.

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- (2) For uses other than residential, the area measured from the exterior faces of the exterior walls, or from the centerline of walls or partitions separating such uses, including all floors, lofts, balconies, mezzanines, cellars, basements and similar areas devoted to such uses.

Front yard means the yard facing or adjacent to the street to which the property address is assigned.

Frontage means all the property abutting on one side of a street between two intersecting streets or all of the property abutting on one side of a street between an intersecting street and the dead end of a street.

Garage means:

- (1) *Private*. An accessory building, attached or detached, used for the purpose of storage of vehicles and miscellaneous equipment.
- (2) *Public*. Any building or premises, other than a private or a storage garage, where motor-driven vehicles are equipped, repaired, serviced, hired, sold or stored.
- (3) *Storage*. Any building or premises used for the storage only of motor-driven vehicles, pursuant to previous arrangements and not to transients, and where no equipment, parts, fuel, grease or oil is sold. No commercial motor vehicle exceeding two tons' capacity shall be stored in any storage garage.

Home occupation means a gainful occupation conducted by members of the family only within their place of residence, provided that no article is sold or offered for sale on the premises except such as is produced by such occupations, that no stock in trade is kept or sold, that no mechanical equipment is used other than such as is permissible for purely domestic purposes, that no sign other than one unlighted name plate not more than one foot square is installed and that no person other than a member of the immediate family living on the premises is employed. Outdoor storage of raw materials or finished products is not allowed.

Hotel, motel means a building in which lodging, with or without meals, is offered to transient guests for compensation and in which there are more than five sleeping rooms with no cooking facilities in any individual room or apartment.

Lot means a parcel of land having a width and depth sufficient to provide the space necessary for one main building and its accessory building, together with the open spaces required by this chapter and abutting on a public street or officially approved place.

- (1) *Corner*. A lot abutting on two or more dedicated and accepted streets at their intersections, provided that the interior angle of such intersection is less than 135 degrees.
- (2) *Interior*. A lot other than a corner lot.
- (3) *Through*. An interior lot having frontage on two nonintersecting streets.

Lot depth means the mean horizontal distance between the front and rear lot lines.

Lot lines means the lines bounding a lot as defined herein.

Manufactured home means a structure that is designed to be used as a dwelling with or without a permanent foundation and that is certified by the Federal Department of Housing and Urban Development as complying with the standards established under 42 USC 5401 to 5425 and a mobile home, unless a mobile home is specifically excluded under the applicable statute.

Manufactured/mobile home park means any lot on which two or more manufactured or mobile homes are parked for the purpose of temporary or permanent habitation.

Mobile home means a vehicle manufactured or assembled before June 15, 1976, designed to be towed as a single unit or in sections upon a highway by a motor vehicle and equipped and used, or intended to be used, primarily for human habitation, with walls of rigid uncollapsible construction, which has an overall length in excess

of 45 feet. The term "mobile home" includes the mobile home structure, its plumbing, heating, air conditioning and electrical systems, and all appliances and all other equipment carrying a manufacturer's warranty.

Motel. See *Hotel*.

Nonconforming use means a building or premises lawfully used or occupied at the time of the passage of this chapter or amendments thereto which use or occupancy does not conform to the regulations of this chapter or any amendments thereto.

Nursery means any building or lot, or portion thereof, used for the cultivation or growing of plants and including all accessory buildings.

Nursing home means any building used for the continuous care, on commercial or charitable basis, of persons who are physically incapable of caring for their own personal needs.

Parking stall means an off-street space, available for the parking of a motor vehicle and which, in this chapter, is held to be an area ten feet wide and 20 feet long, exclusive of passageways and driveways appurtenant thereto and giving access thereto.

Professional home office means the office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician or other recognized profession. When established in an R-1 district, a professional office shall be incidental to the residential occupation and not more than 25 percent of the floor area of only one story of a dwelling unit shall be occupied by such office. Only one person may be employed who is not a resident of the home.

Railroad right-of-way means a strip of land with tracks and auxiliary facilities for track operation, but not including freight depots or stations, loading platforms, train sheds, warehouses, car or locomotive shops, or car yards.

Setback means the minimum horizontal distance between the street line and the nearest point of a building or any projection thereof, excluding uncovered steps and ADA compliant ramp.

Shopping center means a group of stores, planned and designed for the site on which it is built, functioning as a unit with off-street parking provided on the property as an integral part of the unit.

Sign means any words, letters, figures, numerals, phrases, sentences, emblems, devices or designs visible from a public street or highway which convey information regarding the use or ownership of the establishment on the same property upon which it is located, as distinguished from a billboard.

Special exception means a use that is prohibited under this chapter, but which may be granted by the village board upon application and referral to the plan commission on a case-by-case basis under circumstances where the board finds that granting a special exception would not be contrary to the public interest and if not granted would result in undue practical difficulty.

Story means that portion of a building included between the surface of a 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. A basement or cellar having one-half or more of its height above grade shall be deemed a story for purposes of height regulation.

Street means all property dedicated for public street purposes.

Street line means a dividing line between a lot, tract or parcel of land and an abutting street right-of-way.

Structural alterations mean any change in the supporting members of a building or any change in the roof structure or in the exterior walls.

Structure means anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having a permanent location on the ground; i.e., gazebo, playhouse, garden shed or any other similar structure.

Temporary structure means a movable structure which does not require a permanent location on the ground and which is not attached to something having a permanent location on the ground.

Use means the purpose or activity for which the land or building thereon is designed, arranged or intended, or for which it is occupied or maintained.

Use, accessory, means a use subordinate in nature, extent or purpose to the principal use of a building or lot and which is also an approved use if so stated in this chapter.

Use, conditional. See *Conditional use*.

Use, permitted, means a use which may be lawfully established in a particular district, provided it conforms with all requirements, regulations and performance standards, if any, of such districts.

Use, principal, means the main use of land or building as distinguished from a subordinate or accessory use. A principal use may be permitted or conditional.

Utilities means public and private facilities such as water wells, water and sewer pumping stations, water storage tanks, electric transmission towers, electric lines, electric transmission substations, gas transmission regulation stations, telephone and telegraph exchanges, microwave relay structures, but not including sewage disposal plants, municipal incinerators, warehouses, shops and storage yards.

Vision clearance means an unoccupied triangular space at the street corner of a corner lot which is bounded by the street lines and a setback line connecting points specified by measurement from the corner on each street line.

Yard means an open space on the same lot with a building, unoccupied and unobstructed from the ground upward, except as otherwise provided herein.

- (1) *Front yard or setback*. A yard extending the full width of the lot between the front lot line and the nearest part of the main building, excluding uncovered steps and ADA compliant ramp.
- (2) *Rear yard*. A yard extending the full width of the lot, being the minimum horizontal distance between the rear lot line and the nearest part of the building excluding uncovered steps and ADA compliant ramp.
- (3) *Side yard*. A yard extending from the front yard to the rear yard, being the minimum horizontal distance between a building and the side lot line.

Zoning district means an area within the corporate limits for which the regulations and requirements governing use, lot and bulk of buildings and premises are uniform.

Zoning permit means a permit stating that the placement of and the purpose for which a building or land is to be used is in conformity with the uses permitted and all other requirements under this chapter for the zone in which it is to be located.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-5. 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, ordinances, rules, regulations or permits previously adopted or issued pursuant to law. However, wherever this chapter imposes greater restrictions, the provisions of this chapter shall govern.

(Ord. No. 1-04, § I(5), 3-1-2004)

Sec. 38-6. Interpretation.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the village and shall not be deemed a limitation or repeal of any other power granted by the state statutes.

(Ord. No. 1-04, § I(6), 3-1-2004)

Sec. 38-7. Compliance.

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

(Ord. No. 1-04, § I(1), 3-1-2004)

Secs. 38-8—38-32. Reserved.

ARTICLE II. DISTRICTS

DIVISION 1. GENERALLY

Sec. 38-33. Established.

The village is divided into the following zoning districts:

- (1) R-1 Single-Family Residential District.
- (2) R-2 Two-Family Residential District.
- (3) R-3 Residential Condominium District.
- (4) R-4 Three-Family or Multifamily District.
- (5) R-5 R-PUD Residential Planned Unit Development Districts.
- (6) R-6 Manufactured/Mobile Home Park and Subdivision District.
- (7) C-1 General Commercial District.
- (8) C-2 Highway Commercial District.
- (9) C-3 Neighborhood Commercial District.
- (10) M-1 Limited Industrial and Business Park District.
- (11) A Agricultural District.
- (12) CON Conservancy District.
- (13) Floodplain and Shoreland-Wetland Districts.

(Ord. No. 1-04, § I(1), 3-1-2004; Ord. No. 2021-08, § 1, 8-16-2021)

Sec. 38-34. Zoning map.

The locations and boundaries of the districts are shown on the current official village zoning map, and referred to by reference as the official zoning map, for the village. Such map, together with all explanatory matter and regulations thereon, is an integral part of this article and all amendments thereto. Official copies of the zoning map, together with a copy of this article, shall be kept by the clerk-treasurer and shall be available for public inspection during office hours. Any changes or amendments affecting district boundaries shall not be effective until recorded and the certified change is filed with the map.

(Ord. No. 1-04, § I(2), 3-1-2004; Ord. No. 05-2017, 12-4-2017)

Sec. 38-35. Boundaries.

When uncertainty exists with respect to the boundaries of the various districts as shown on the map, the following rules shall apply:

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- (1) When width or length of boundaries are not clear, the scale of the map shall determine the approximate dimensions.
 - (2) If the village's floodplain, shoreland-wetland, and general zoning regulations conflict with one another, the most restrictive combination of such regulations shall control.
 - (3) District boundaries are normally lot lines and centerlines of streets, highways, railroads or alleys.
 - (4) Prior to obtaining any permits in any zoning district identified above, all plans, to the extent applicable, shall be submitted to the architectural review board in accordance with this article.

(Ord. No. 1-04, § I(4), 3-1-2004)

Sec. 38-36. Performance standards; compliance.

This article permits specific uses in specific districts and these performance standards are designed to limit, restrict and prohibit the effects of those uses outside their premises or district. No structure, land or water shall hereafter be used except in compliance with the district regulations and with the following performance standards.

- (1) *Air pollution.* No activity shall emit any fly ash, dust, fumes, vapors, mists or gases in such quantities as to cause soiling or danger to the health of persons, animals, vegetation or property. No activity shall emit any liquid or solid particles in concentrations exceeding 0.3 grains per cubic foot of the conveying gas, nor any color visible smoke equal to or darker than No. 2 on the Ringlemann Chart described in the United States Bureau of Mine's Information Circular 7718 in the industrial districts.
- (2) *Fire and explosive hazards.* All activities involving the manufacturing, utilization, processing or storage of inflammable and explosive materials shall be provided with adequate safety devices against the hazard of fire and explosion, and with adequate firefighting and fire-suppression equipment and devices that are standard in the industry. All materials that range from active to intense burning shall be manufactured, utilized, processed and stored only in completely enclosed buildings which have incombustible exterior walls and an automatic fire extinguishing system.
- (3) *Glare and heat.* No unsanctioned activity shall emit glare or heat that is visible or measurable outside its premises, except activities in the industrial districts which may emit direct or sky-reflected glare which shall not be visible outside their district. All operations producing intense glare or heat shall be conducted within a completely enclosed building. Exposed sources of light shall be shielded so as not to be visible outside their premises.
- (4) *Liquid or solid wastes.* No activity shall discharge at any point onto any land or into any water or public sewer any materials of such nature, quantity, noxiousness, toxicity or temperature which can contaminate, pollute or harm the quantity or quality of any water supply; can cause the emission of dangerous or offensive elements; can overload the existing municipal utilities; or can injure or damage persons or property.
- (5) *Noise and vibration.* There shall be no noise or vibration over 70 decibels emanating from any unsanctioned activities beyond the boundaries of the immediate site determined to be a nuisance by the building inspector. Sirens, whistles and bells which are maintained and utilized solely to serve a public purpose are exempt from the sound level standards of this section.
- (6) *Odors.* No activity shall emit any odorous matter of such nature or quantity as to be offensive, obnoxious or unhealthful outside their premises.
- (7) *Radioactivity and electrical disturbances.* No activity shall emit radioactivity or electrical disturbances outside its premises that are dangerous or adversely affect the use of neighboring premises.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-37. Use restrictions.

The following use restrictions and regulations shall apply:

- (1) *Principal uses.* Only those principal uses specified for a district, their essential services and the following shall be permitted in that district:
 - a. *Accessory uses.* Accessory uses and structures are permitted in any district, but not until their principal structure is present or under construction. Residential accessory uses shall not involve the conduct of any business, trade or industry. Accessory uses include incidental repairs; storage; parking facilities; gardening; servant's and watchman's quarters not for rent; private swimming pools; and private emergency shelters. Accessory buildings shall not occupy more than 30 percent of the required area for the rear yard.
 - b. *Unclassified or unspecified uses.* Unclassified or unspecified uses may be permitted by the village board after the plan commission has made a review and recommendation, provided that such uses are similar in character to the principal uses permitted in the district.
 - c. *Temporary uses.* Temporary uses such as real estate sales field offices or shelters for materials and equipment being used in the construction of a permanent structure may be permitted by the village board.
- (2) *Performance standards.* Performance standards listed in section 38-36 shall be complied with by all uses in all districts.

(Ord. No. 1-04, § I(2), 3-1-2004)

Sec. 38-38. Nonconforming uses, structures and lots.

(a) *Existing nonconforming uses.*

- (1) *Continuation.* The lawful nonconforming use of a structure, land or water existing at the time of the adoption or amendment of this article may be continued although the use does not conform with the provisions of this article; provided, however:
 - a. Only that portion of the land or water in actual use may be so continued and the structure may not be extended, enlarged, reconstructed, substituted, moved or structurally altered, except when required to do so by law or order or so as to comply with the provisions of this article.
 - b. The total lifetime structural repairs or alterations shall not exceed 50 percent of the assessed value of the structure at the time of its becoming a nonconforming use unless it is permanently changed to conform to the use provisions of this article.
 - c. Substitution of new equipment may be permitted by the village board if such equipment will reduce the incompatibility of the nonconforming use with the neighboring uses.
- (2) *Abolishment or replacement of existing nonconforming use.* If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land or water shall conform to the provisions of this article. When a nonconforming use or structure is damaged by fire, explosion, flood, the public enemy or other calamity to the extent of more than 50 percent of its current equalized assessed value, it shall not be restored except so as to comply with the use provisions of this article. From the date of adoption of this article, a current file of all nonconforming uses shall be maintained by the clerk-treasurer, listing the following:

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- a. Owner's name and address.
 - b. Use of the structure, land or water.
 - c. Assessed value at the time of its becoming a nonconforming use.
- (b) *Existing nonconforming structures.* Any lawful nonconforming structures existing at the time of the adoption or amendment of this article may be continued, although its size or location does not conform with the lot width, lot area, yard, height, parking and loading, and access provisions of this article. However, it shall not be extended, enlarged, reconstructed, moved or structurally altered except when required to do so by law or order or so as to comply with the provisions of this article unless a variance is first obtained from the board of zoning appeals.
- (c) *Changes and substitutions.* Once a nonconforming use or structure has been changed to conform, it shall not revert back to a nonconforming use or structure. Once the village board has permitted the substitution of a more restrictive nonconforming use for an existing nonconforming use, the substituted use shall lose its status as a legal nonconforming use and become subject to all the conditions required by the village board.
- (d) *Existing vacant substandard lots.* An existing lot which does not contain sufficient area to conform to the dimensional requirements of this article, but which is at least 50 feet wide and 5,000 square feet in area, may be used as a single-family building site provided that the use is permitted in the zoning district and the lot is of record in the county register of deed's office prior to the effective date of the ordinance from which this article is derived; and, further provided, that the lot is in separate ownership from abutting lands. If two or more vacant substandard lots with continuous frontage have the same ownership as of the effective date of the ordinance from which this article is derived, the lots involved shall be considered to be an individual parcel for the purpose of this article. Substandard lots shall be required to meet the setbacks and other yard requirements of this article. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after approval of a variance by the board of zoning appeals.

(Ord. No. 1-04, § 1, 3-1- article)

Sec. 38-39. Conditional uses.

- (a) *General uses applicable to one or more districts.* The following uses shall be conditional uses and may be permitted as specified:
- (1) Governmental and cultural uses such as fire and police stations, village centers, libraries, public emergency shelters, parks, playgrounds, museums and historical landmarks or restorations may be permitted in all residential and commercial districts.
 - (2) Utilities in all districts, provided all principal structures and uses are not less than 50 feet from any residential lot line.
 - (3) Incinerators, sewerage disposal plants and earth or sanitary landfill operations may be permitted in the A Agricultural District.
 - (4) Golf courses may be permitted in any residential or agricultural district.
 - (5) Cemeteries may be permitted in any residential or commercial district.
 - (6) Publicly owned skating rinks, sports fields, swimming pools, tennis courts, or other recreational venues may be permitted in any district.
 - (7) Commercial recreational facilities.
 - (8) Privately owned swimming pools.

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- (9) Boat launches, liveries and repair facilities may be permitted in the R-1, R-2 and CON districts.
- (10) State-licensed day care facilities may be permitted in any district.
- (b) *Application*. Applications for conditional use permits shall be made in duplicate to the clerk-treasurer on forms furnished by the clerk-treasurer and shall include the following:
- (1) Names and address of the applicant, owner of the site, architect, professional engineer, contractor and all opposite and abutting property owners of record.
 - (2) Description of the subject site by lot, block and recorded subdivision, or by metes and bounds; address of the subject site; type of structure; proposed operation or use of the structure or site; number of employees, if any; and the zoning district within which the subject site lies.
 - (3) Site plan showing the location of any buildings and all proposed provisions for off-street parking and loading.
 - (4) Additional information, as may be required by the plan commission, the director of public works and the building inspector.
 - (5) The fee is as provided in the village fee schedule and shall accompany such application.
- (c) *Notice*. Notice of such application and the subsequent hearing thereon before the plan commission shall be published as a Class I notice.
- (d) *Appearances at hearings*. Either the applicant or his agent or attorney shall attend the public hearing of the plan commission at which such application is to be considered unless such attendance has been excused by the plan commission.
- (e) *Review and approval*. The plan commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation. The plan commission shall hold a hearing and thereafter shall recommend approval, denial or condition of approval to the village board. The village board shall accept, reject or modify the plan commission's recommendations.
- (f) *Issuance of permit*. If such permit is issued, the village board may attach conditions thereto such as, but not limited to, landscaping, architectural design, type of construction, construction commencement and completion dates, hours of operation, traffic circulation or parking requirements, highway access restrictions, or increased yards.
- (g) *Uses adjacent to controlled access highways*. Any development within 500 feet of the existing or proposed right-of-way of any freeway, expressway or other controlled access trafficway, and within 1,500 feet of their existing or proposed interchange or turning lane right-of-way, shall be deemed to be a conditional use which shall require the issuance of a permit.
- (Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-40. Yard reduction or joint use.

- (a) No lot area shall be so reduced that the yards and open spaces shall be smaller than is required by this article, nor shall the density of population be increased in any manner except in conformity with the area regulations hereby established for the district in which a building or premises is located.
- (b) No part of a yard or other open space provided about any building for the purpose of complying with the provisions of this article shall be included as a part of a yard or other open space required for another building.

(c) No lot in the village which contains a building shall hereafter be reduced by any type of conveyance to an area less than would be required for the construction of such building on such lot.

(Ord. No. 1-04, § I(3), 3-1-2004)

Sec. 38-41. Lot occupancy.

Every building hereafter erected, converted, enlarged or structurally altered shall be located on a platted lot and in no case, shall there be more than one principal building on one platted lot unless approved by the village board.

(Ord. No. 1-04, § I(4), 3-1-2004)

Sec. 38-42. Yards abutting district boundaries.

Any side yard, rear yard or court abutting a district boundary line shall have a minimum width and depth in the less restricted district equal to the average of the required minimum widths and depths for such yards and courts in the two districts which abut the district boundary line.

(Ord. No. 1-04, § I(5), 3-1-2004)

Sec. 38-43. Storage limitation.

No required side yard or front yard in the commercial or industrial districts shall be used for storage or the conduct of business.

(Ord. No. 1-04, § I(6), 3-1-2004)

Sec. 38-44. Vision clearance.

No obstructions such as structures, parking or vegetation shall be permitted in any district other than the C-1 district between the height of 2½ and ten feet above a plane through the mean curb grades within the triangular space formed by any two existing or proposed intersecting street or alley right-of-way lines and a line joining points on such lines, located a minimum of 35 feet from their intersection. Official signs, utility poles, and tree trunks may be permitted within each segment of an intersection traffic visibility area.

(Ord. No. 1-04, § I(7), 3-1-2004)

Sec. 38-45. Height and area exceptions.

The regulations contained herein relating to the height of buildings and the size of yards and other open spaces shall be subject to the following exceptions:

- (1) *Chimneys, towers, lofts, etc.* Chimneys, cooling towers, elevator bulkheads, fire towers, monuments, windmills, stacks, scenery lofts, tanks, water towers, ornamental towers, spires, wireless or broadcasting towers, masts or aerials and necessary mechanical appurtenances exceeding the height regulations of this article may be permitted as conditional uses by the plan commission.
- (2) *Street yard modifications.* The yard requirements stipulated elsewhere in this article may be modified as follows:

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- a. Uncovered stair restrictions. Uncovered stairs, landings and fire escapes may project into any yard, but not to exceed six feet and be no closer than three feet to any lot line.
 - b. Cul-de-sac and curve restrictions. Residential lot frontage on cul-de-sacs and curves and for single-family residences in the R-1 district may be less than 100 feet provided the width at the building setback line is at least 100 feet and the street frontage is not less than 45 feet. Residential lot frontage on cul-de-sacs and curves for two-family and multifamily residences in R-2 and R-3 districts may be less than 100 feet provided the width at the building setback line is at least 100 feet and the street frontage is not less than 55 feet.
 - c. Residential fence restrictions. Residential fences (in R-1 through R-6 districts) are permitted only on the rear and side yards in the residential districts. On the side yards, the fence shall not project into the principal building required setback distance and shall be in compliance with required vision clearance. On corner lots, both yards fronting public roadways shall be considered front yards, and any fences constructed shall not extend past the corners of the dwelling. Fences shall not be constructed of woven wire, barb wire or chain link material. For property abutting the village, no fence shall be erected within 25 feet of the meander line. A building permit is required for the construction of all fences.
 - d. Security fence restrictions. Security fences are permitted in industrial and business districts with village board approval, but shall not be located more than two feet from the property line and shall not exceed ten feet in height and shall be an open type similar to woven wire or wrought iron fencing. A building permit is required. See chapter 8.
 - e. Essential services exemptions. Essential services, utilities, electric power and communication transmission lines are exempt from the yard and distance requirements of this article.
 - f. Street yard restrictions. With the approval of the plan commission, the required street yards may be decreased in any residential, business or industrial district to the average of the existing street yards of the abutting structures on each side, but in no case less than 15 feet in the residential districts and five feet in any business or industrial district.
 - g. Grass seed or sod cover shall be applied to all yards within one year of commencement of construction.
- (3) *Corner lots.* On corner lots the side yard facing the street shall not be less than 25 feet.
 - (4) *Lots abutting different grades.* Where a lot abuts on two or more streets or alleys having different average established grades, the higher of such grades shall control only for a depth of 120 feet from the line of the higher average established grade plus 12 inches to the top of the basement wall.
 - (5) *Buildings on through lots.* The requirements for a rear yard for buildings on through lots and extending from street to street may be waived by furnishing an equivalent open space on the same lot in lieu of the required rear yard provided that the setback requirements on both streets be complied with.
 - (6) *Accessory buildings.* Accessory buildings which are not a part of the main building shall not occupy more than 30 percent of the area of the required rear yard, shall not be more than 15 feet high and shall not be nearer than five feet to any lot line nor five feet to any alley line, and shall not extend into a front yard beyond the required setback.
 - (7) *Unobstructed yards.* Every part of a required yard shall be open to the sky unobstructed except for accessory buildings in a rear yard.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-46. Fences and walls.

- (a) *Permit required.* No person shall construct a fence or wall in the village without first obtaining approval of the architectural review board and a permit from the building inspector.
- (b) *Application; fee.* Application for a permit shall be filed with the building inspector on a form supplied by the inspector and the architectural review board, together with a sketch of the proposed fence and the payment of the fee provided in the village fee schedule.
- (c) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Fence means a barrier constructed of wood, wire, boards or other materials intended to prevent the escape or intrusion or to mark a boundary.

- (d) *General requirements.*

- (1) *For districts R-1—R-6 fences and walls in front and side yards.* On any corner lot, no fence, wall or shrub shall be within the vision triangle prescribed in this chapter. No wall or fence may be erected in any front or side yard, except that a decorative fence shall be no more than three feet in height extending no more than ten feet in length in any one direction or a total of 20 feet and shall be set back two feet from the lot line. All fences in the C-1, C-2, C-3 and M-1 districts must be reviewed and recommended by the architectural review board and approved by plan commission.
- (2) *Fences in rear yards.* Fences having a height of six feet or less may be located within the required rear yards in residential districts.
- (3) *Location.* The property owner shall be responsible for the proper placement and location of the fence. No fence shall be placed closer than two feet from the property line unless written consent is obtained from the abutting property owner and a variance granted by the board of zoning appeals.
- (4) *Dog pens and runs.* Dog pens and runs shall be erected in the rear yard only and shall be located at least five feet from any property line.
- (5) *Wire fences.* Wire fences are to be of a vinyl coated minimum wire gauge No. 16 with maximum opening of two inches by three inches.
- (6) *Wood fences.* Redwood or cedar shall be preferred for durability. Other woods may be used provided they are suitable and maintained.
- (7) *Barbed wire.* No fence consisting wholly or in part of barbed wire shall be erected or maintained in the village except for farming purposes and except for approved security fences.
- (8) *Security fences.* The plan commission, upon proper application, may approve security fences in nonresidential zones of such design and construction as it shall deem proper.
- (9) *Fence side.* Posts and framing shall face the property for which the fence permit application is being made.
- (10) *Chainlink fence.* A fence of heavy steel wire woven to form a diamond-shaped mesh.
- (11) *Woven wire fence.* A fence constructed by woven wire together, often containing barbed wire, designed to serve as a barrier to livestock, wildlife or people.
- (12) *Nonconforming fences.* Present fences may stand even though they do not conform to this section. However, nonconforming fences requiring 50 percent or more repairs or rebuilding shall be removed or rebuilt to conform with the requirements of this section.
- (13) *Maintenance of fences required.* All fences shall be maintained in good physical condition.

(e) *Private swimming pool fences.*

- (1) *Required.* No person shall maintain, construct, install or enlarge a residential swimming pool not enclosed in a permanent building in the village unless a fence is constructed in accordance with this section.
- (2) *Definition.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Swimming pool means any depression in the ground, either temporary or permanent, or a container of water, either temporary or permanent and either above or below the ground, in which water more than 24 inches deep is contained and which is used primarily for the purpose of bathing or swimming.

- (3) *Fences.*

- a. Except as provided in subsection (d)(4) of this section, all swimming pools not enclosed within a permanent building shall be completely enclosed by a fence of sufficient strength to prevent access to the pool and shall be five feet in height and so constructed as not to have voids, holes or openings larger than four inches in one dimension. Gates or doors shall be equipped with self-closing devices for keeping the gates or doors securely closed and locked at all times when not in actual use.
- b. Aboveground pools with self-provided fencing to prevent unguarded entry shall be permitted without separate additional fencing, provided the self-provided fence is of the minimum height and design as herein specified.
- c. Permanent access from grade to above-ground pools having stationary ladders, stairs or ramps shall have safeguard fencing and gates equivalent to those required herein, subject to all other applicable ordinances and subject to the following requirements:
 1. No fence shall be located, erected, constructed or maintained closer than three feet to a pool.
 2. The wall of the house or building facing a pool may be incorporated as a portion of such fence.
- (4) *Hot tubs.* All hot tubs which are not fenced, as provided in subsection (d)(3) of this section, shall be covered by a lid securely fastened at all times the hot tub is not in use.

(Ord. No. 1-04, § 1, 3-1-2004)

Sec. 38-47. Traffic, parking and access.

- (a) *Loading requirements.* In all business and industrial districts adequate loading areas shall be provided so that all vehicles loading, maneuvering or unloading are completely off the public ways and so that all vehicles need not back onto any public way.
- (b) *Parking requirements.* In all districts and in connection with every use, except in the C-1 General Commercial District, there shall be provided at the time any use or building is erected, enlarged, extended or increased off-street parking stalls for all vehicles in accordance with the following:
 - (1) *Access.* Adequate access to a public street shall be provided for each parking space, and driveways shall be at least ten feet wide for one- and two-family dwellings and a minimum of 24 feet for all other uses.
 - (2) *Size.* The size of each parking space shall be not less than ten feet by 20 feet, exclusive of the space required for ingress and egress.

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- (3) *Location.* The location is to be on the same lot as the principal use or not over 400 feet from the principal use. No parking stall or driveway, except in residential districts, shall be closer than 25 feet to a residential district lot line or a street line opposite a residential district.
 - (4) *Surfacing.* All off-street parking areas shall be graded and hard surfaced so as to be dust-free and properly drained. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving. Any parking area for more than five vehicles shall have the aisles and spaces clearly marked.
 - (5) *Curbs or barriers.* Curbs or barriers shall be installed so as to prevent the parked vehicles from extending over any lot line.
 - (6) *Number of parking stalls required.*
 - a. Single- and two-family dwellings and manufactured or mobile homes: two stalls/dwelling unit.
 - b. Multifamily dwellings: two stalls/dwelling unit.
 - c. Hotels and motels: one stall/guest room plus one stall/three employees.
 - d. Hospitals, clubs, lodges, sororities, dormitories, lodgingshouses and boardinghouses: one stall/two beds plus one stall/three employees.
 - e. Sanitariums, institutions, rest and nursing homes: one stall/two beds plus one stall/three employees.
 - f. Medical and dental clinics: three stall/two beds plus one stall/employee.
 - g. Churches, theaters, auditoriums, village centers, vocational and night schools and other places of public assembly: one stall/five seats.
 - h. Colleges, secondary and elementary schools: one stall/two employees plus one stall/student auto permitted.
 - i. Restaurants, bars, places of entertainment, repair shops, retail and service stores: one stall/150 square feet of floor area.
 - j. Manufacturing and processing plants, laboratories and warehouses: one stall/two employees.
 - k. Financial institutions and businesses, governmental and professional offices: one stall/200 square feet of floor area plus one stall/two employees.
 - l. Funeral homes: one stall/four seats plus one stall/vehicle used in the business.
 - m. Bowling alleys: five stalls/alley.

In the case of structures or uses not mentioned, the provision for a use which is similar shall apply. Combinations of any of the above uses shall provide the total of the number of stalls required for each individual use. Parking stalls are not required to be provided in the C-1 district, but when they are provided, they shall conform to requirements of size, access, surfacing and barriers, but not number of stalls or location as specified above.

- (c) *Driveways.* All driveways installed, altered, changed, replaced or extended after the effective date of the ordinance from which this article is derived shall meet the following requirements:
 - (1) Openings for vehicular ingress and egress shall not exceed 24 feet at the street line and 30 feet at the roadway. This requirement shall not apply in the following zoning districts:
 - a. C-1 General Commercial District.
 - b. C-2 Highway Commercial District.
 - c. M-1 Limited Industrial District.

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- (2) Vehicular entrances and exits to drive-in banks and restaurants; motels; funeral homes; vehicular sales, service, washing and repair stations; garages; or public parking lots shall be not less than 100 feet from any pedestrian entrance or exit to a school, church, hospital, park, playground, library or public emergency shelter.
 - (3) All driveways must be hard surfaced, and constructed prior to occupancy. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway, shall be constructed from concrete, shall be at least six inches thick, and shall be constructed with tapered sides.
 - (d) *Highway access.* No direct private access shall be permitted to the existing or proposed rights-of-way of any controlled access arterial street without permission of the highway agency that has access control jurisdiction.

(Ord. No. 1-04, § I, 3-1-2004)

Secs. 38-48—38-67. Reserved.

DIVISION 2. RESIDENTIAL

Sec. 38-68. R-1 Single-Family Residential District.

The R-1 district is intended to provide a quiet, pleasant and relatively spacious living area for single-family dwellings, protected from traffic hazards and intrusion of incompatible land uses.

- (1) *Permitted uses.*
 - a. One-family dwellings.
 - b. Two- and three-family dwellings existing on the effective date of the ordinance from which this division is derived.
- (2) *Conditional uses.*
 - a. Churches, synagogues and similar places of worship and instruction, including parsonages.
 - b. Municipal buildings, except sewerage disposal plants, garbage incinerators, public warehouses, public garages, public shops and storage yards and penal or correctional institutions and asylums.
 - c. Utility offices, provided there is no service garage or storage yard.
 - d. Public, parochial and private elementary and secondary schools.
 - e. Public parks, recreation areas, playgrounds and village centers.
 - f. Home occupations and professional offices.
- (3) *Lot, yard and building requirements.*
 - a. Lot frontage minimum: 80 feet.
 - b. Lot size: 10,000 square feet.
 - c. Principal building:
 1. Front yard minimum depth: 25 feet.
 2. Side yards minimum: total, 15 feet; minimum side, seven feet.
 3. Rear yard minimum: 25 feet.
 4. Building height maximum: 35 feet.
 5. Floor area minimum:
 - (i) Single-story dwelling: 1,500 square feet.
 - (ii) Bi-level, tri-level or two-story dwelling: 1,000 square feet, on ground floor, with a total minimum of 1,700 square feet.
 - (iii) Dwellings existing on the effective date of March 1, 2004: 1,200 square feet.
 - d. Accessory buildings:
 1. General.

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- (i) Front yard minimum: 25 feet plus depth of principal building.
 - (ii) Side yards minimum: five feet.
 - (iii) Rear yard minimum: five feet.

2. Garage.

- (i) Maximum area: 1,000 square feet, or 60 percent of building area, whichever is greater.
- (ii) Minimum area: 500 square feet.
- (iii) Every dwelling unit shall have a garage, which shall be completed before occupancy.
- (iv) Detached garages may not have living quarters above. Wall height shall not exceed ten feet, roof pitch cannot exceed the pitch of principal building.
- (v) Attached garages may have living quarters above. Total height of attached garages cannot exceed 35 feet.
- (vi) No garage shall be constructed with exterior metal walls. However, metal siding is permitted, so long as each horizontal siding panel does not exceed a maximum width of 12 inches.
- (vii) Each dwelling unit shall not have more than one garage.

3. Garden shed.

- (i) Maximum area: 180 square feet.
- (ii) Building height maximum: 15 feet.
- (iii) Only one garden shed per dwelling unit. Two garden sheds, one at street level with a five-foot setback and one at lake level, are allowed only on the following properties due to topographical features of the lot: 77 Hwy. 144, 79 Hwy. 144, 75 Hwy. 144, and all properties with lake frontage on Stark Road to the east end as it exists or may be extended.
- (iv) Sheds constructed exclusively from metal or plastic materials or constructed with a barn style roof are prohibited.
- (v) All sheds must be architecturally compatible with the exterior appearance of the main structure or building.

e. Off-street parking: minimum two spaces per unit.

(4) *Driveways and driveway curb cuts.*

- a. All driveways must be hard surfaced and constructed within one year of occupancy. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway shall be constructed from concrete, shall be at least six inches thick and shall be constructed with tapered sides. No property shall have more than one driveway.
- b. Plans for driveways and curb cuts shall be submitted as part of the plot plan for review by the architectural review board. Curb cuts shall be made prior to commencement of any construction. Curb cuts shall be saw cut or full replacement of curb shall be required. No mounding of dirt or gravel in the gutter shall be allowed to provide access to the construction site.

(Ord. No. 1-04, § I, 3-1-2004; Ord. No. 6-04, § 1, 8-2-2004; Ord. No. 6-2015, 7-6-2015; Ord. No. 06-2016, 7-18-2016; Ord. No. 2021-03, § 1, 4-5-2021; Ord. No. 2022-01, § 1, 8-15-2022)

Sec. 38-69. Single-family dwelling standards.

No single-family dwelling, including dwellings constructed on the building site, manufactured dwellings and manufactured homes, shall be erected or installed in any zoning district except in the R-6 district unless such dwelling meets all of the following standards:

- (1) The dwelling shall be set on a full basement or other permanent enclosed structure in accordance with the state uniform dwelling code.
- (2) The dwelling shall have a minimum width of 24 feet and core area of living space at least 24 feet by 24 feet.
- (3) The dwelling shall have a pitched roof with a minimum slope of three inches of rise in 12 inches of run, and eaves extending beyond the nearest vertical wall a minimum of 12 inches. The roofing shall be asphalt shingles or comparable roofing.
- (4) In addition, each dwelling on lots over 40 feet is required to select four features, and on lots narrower than 40 feet is required to select three features, from the following list:
 - a. Offset or stagger the front wall plane by at least two feet. This does not include the garage wall or a recessed entry.
 - b. Garage offset at least two feet behind front wall of dwelling.
 - c. Side loading garages that are at least 45 degrees offset from front wall of living quarters with windows compatible to front elevation of house.
 - d. Covered front entry/porch five feet by 12 feet or larger with architectural treatments (i.e., railings, posts, etc.).
 - e. Main roofline to be at least 5:12 pitch.
 - f. Roof dormers on 5:12 or greater, pitched roof.
 - g. 1½ story dwelling with dormers.
 - h. Two-foot overhang at ends of rafters/trusses and one-foot overhang on gables.
 - i. Minimum of 3½ inches trim around all doors and windows.
 - j. Heavy textured dimensional roofing material.
 - k. Wood or masonry products on at least 25 percent of the walls and recessed areas of the front elevation.
 - l. Front of dwelling, not including garage or second floor, must be 25 percent glass.
 - m. Bay window.

(Ord. No. 1-04, § I, 3-1-2004; Ord. No. 4-04, §§ 1—3, 5-17-2004)

Sec. 38-70. R-2 Two-Family Residential District.

The R-2 district is intended to provide a quiet, pleasant and relatively spacious living area for single-family, and two-family dwellings protected from traffic hazards and intrusion.

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- (1) *Permitted uses.*
 - a. Uses permitted in the R-1 district.
 - b. Boardinghouses, up to four paying guests or boarders, including bed and breakfast establishments.
 - c. Existing multifamily dwellings.
 - (2) *Conditional uses.*
 - a. Conditional uses permitted in the R-1 district.
 - b. Funeral homes.
 - c. Public hospitals and rest homes.
 - d. Private clubs, fraternities and lodges, except those whose chief activity is customarily carried on as a business.
 - (3) *Lot, yard and building requirements.*
 - a. Single-family dwellings. Same as for R-1 district.
 - b. Two-family dwellings.
 1. Lot frontage minimum: 100 feet.
 2. Lot area minimum: 10,000 square feet.
 - c. Principal building:
 1. Front yard minimum: 25 feet.
 2. Side yards minimum: ten feet.
 3. Rear yard minimum: 25 feet.
 4. Building height maximum: 35 feet.
 5. Floor area minimum (per dwelling unit):
 - (i) Dwellings existing on December 31, 1997: 960 square feet.
 - (ii) Dwellings existing on effective date of March 1, 2004: 1,150 square feet.
 - (iii) Dwellings constructed after March 1, 2004: 1,200 square feet.
 - d. Accessory building:
 1. General.
 - (i) Front yard minimum: 25 feet plus depth of principal building.
 - (ii) Side yards minimum: five feet.
 - (iii) Rear yard minimum: five feet.
 2. Garage.
 - (i) Maximum area: 700 square feet or 60 percent of the building area of the residence, whichever is greater.
 - (ii) Minimum area: 300 square feet per dwelling unit.

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- (iii) Every dwelling unit shall have a garage, which shall be completed before occupancy.
 - (iv) Detached garages may not have living quarters above. Wall height shall not exceed ten feet, roof pitch cannot exceed the pitch of principal building.
 - (v) Attached garages may have living quarters above. Total height of attached garages cannot exceed 35 feet.
 - (vi) No garage shall be constructed with exterior metal walls. However, metal siding is permitted, so long as each horizontal siding panel does not exceed a maximum width of 12 inches.
 - (vii) Each dwelling unit shall not have more than one garage.

3. Garden shed.

- (i) Maximum area: 180 square feet.
- (ii) Building height maximum: 15 feet.
- (iii) Only one garden shed per dwelling unit.
- (iv) Sheds constructed exclusively from metal or plastic materials or constructed with a barn style roof are prohibited.
- (v) All sheds must be architecturally compatible with the exterior appearance of the main structure or building.

4. Off-street parking: minimum two spaces per unit.

(4) *Driveways and driveway curb cuts.*

- a. All driveways must be hard surfaced, and constructed within one year of occupancy. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway, shall be constructed from concrete, shall be at least six inches thick and shall be constructed with tapered sides. Maximum quantity of one driveway per dwelling unit.
- b. Plans for driveways and curb cuts shall be submitted as part of the plot plan for review by the architectural review board. Curb cuts shall be made prior to commencement of any construction. Curb cuts shall be saw cut or full replacement of curb shall be required. No mounding of dirt or gravel in the gutter shall be allowed to provide access to the construction site.

(Ord. No. 1-04, § 1, 3-1-2004; Ord. No. 6-04, § 2, 8-2-2004; Ord. No. 2022-01, § 1, 8-15-2022)

Sec. 38-71. R-3 Residential Condominium District.

The R-3 district is intended to provide a quiet, pleasant, and relatively spacious living area for condominium units, protected from traffic hazards and intrusion.

(1) *Permitted uses.*

- a. Condominium units and associated common open space.

(2) *Conditional uses.*

- a. Public parks, recreation areas, playgrounds and village centers.
- b. Home occupations.

(3) *Lot, yard and building requirements.*

- a. Lot frontage minimum.
- b. 100 feet on an exterior street.
- c. Non-corner lot after division for common wall building: 50 feet.
- d. Corner lot after division for common wall building: 40 feet.
- e. Lot area minimum:
 1. Before building: 10,000 square feet.
 2. Non-corner lot after division for common wall building: 5,000 square feet.
 3. Corner lot after division for common wall building: 4,000 square feet.
- f. Principal building.
 1. Front yard minimum: 25 feet or less if approved by village board, or zero feet if common wall between units.
 2. Side yards minimum: ten feet or zero feet if common wall between units.
 3. Rear yard minimum: 25 feet or zero feet if common wall between units.
 4. Building height maximum: 35 feet.
 5. Floor area minimum (per dwelling unit):
- g. Dwellings existing on December 31, 1997: 960 square feet.
- h. Dwellings existing on the effective date of March 1, 2004: 1,150 square feet.
- i. Dwellings constructed after March 1, 2004: 1,200 square feet.

(4) *Accessory building.*

- a. *General.*
 1. Front yard minimum: 25 feet plus depth of principal building.
 2. Side yards minimum: five feet.
 3. Rear yard minimum: five feet.
- b. *Garages.*
 1. Maximum area: 700 square feet or 60 percent of the building area of the residence, whichever is greater.
 2. Minimum area: 300 square feet per dwelling unit.
 3. Every dwelling unit shall have a garage, which shall be completed before occupancy.
 4. Detached garages may not have living quarters above. Wall height shall not exceed ten feet, roof pitch cannot exceed the pitch of principal building.
 5. Attached garages may have living quarters above. Total height of attached garages cannot exceed 35 feet.
 6. No garage shall be constructed with exterior metal walls. However, metal siding is permitted, so long as each horizontal siding panel does not exceed a maximum width of 12 inches.

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7. Each dwelling unit shall not have more than one garage.
- c. *Garden shed.*
 1. Maximum area: 180 square feet.
 2. Building height maximum: 15 feet.
 3. Only one garden shed per dwelling unit.
 4. Sheds constructed exclusively from metal or plastic materials or constructed with a barn style roof are prohibited.
 5. All sheds must be architecturally compatible with the exterior appearance of the main structure or building.
 - d. *Off-street parking minimum: two spaces per unit.*
- (5) *Driveways and driveway curb cuts.*
- a. All driveways must be hard surfaced and constructed within one year of occupancy.
 1. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving.
 2. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway, shall be constructed from concrete, shall be at least six inches thick and shall be constructed with tapered sides.
 3. Maximum quantity of one driveway per dwelling unit.
 - b. Plans for driveways and curb cuts shall be submitted as part of the plot plan for review by the plan commission. Curb cuts shall be made prior to commencement of any construction. Curb cuts shall be saw cut or full replacement of curb shall be required. No mounding of dirt or gravel in the gutter shall be allowed to provide access to the construction site.

(Ord. No. 2021-07 , § 1, 8-5-2021; Ord. No. 2022-01 , § 1, 8-15-2022)

Editor's note(s)—Ord. No. 2021-07 , § 1, adopted August 5, 2021, repealed § 38-71 and enacted a new § 38-71 as set out above and later amended. Former § 38-71 pertained to the R-3 Zero Lot Line or Common Wall Single-Family Duplex Residential District and derived from Ord. No. 1-04, adopted March 1, 2004 and Ord. No. 6-04, adopted August 2, 2004.

Sec. 38-72. R-4 Three-Family or Multifamily Residential District.

- (a) *Permitted uses.*
 - (1) Uses permitted in the R-1, R-2 and R-3 districts.
 - (2) Multifamily dwellings.
 - (3) Boardinghouses, up to four paying guests or boarders, including bed and breakfast establishments.
- (b) *Conditional uses.* Conditional uses permitted in the R-1, R-2 and R-3 districts.
- (c) *Lot, yard and building requirements.*
 - (1) Single-family dwellings. Same as for the R-1 district.
 - (2) Two-family dwellings. Same as for R-2 district.
 - (3) Two-family common wall dwellings. Same as for R-3 district.

(4) Multifamily dwellings.

- a. Lot frontage minimum: 120 feet.
- b. Lot area minimum: 12,000 square feet.
- c. Principal building:
 - 1. Front yard minimum: 25 feet.
 - 2. Side yards minimum: ten feet.
 - 3. Rear yard minimum: 25 feet.
 - 4. Building height maximum: 35 feet.
 - 5. Number of stories maximum: 2.
 - 6. Floor area minimum (per dwelling unit):
 - (i) Dwellings existing on December 31, 1997:
 - A. One bedroom unit: 600 square feet.
 - B. Two bedroom unit: 800 square feet.
 - C. Three bedroom unit: 1,000 square feet.
 - (ii) Dwellings constructed after January 1, 1998:
 - A. One or two bedroom unit: 850 square feet.
 - B. Three bedroom unit: 1,150 square feet.
- d. Accessory building:
 - 1. General.
 - (i) Front yard minimum: 25 feet, plus depth of principal building.
 - (ii) Side yards minimum: five feet.
 - (iii) Rear yard minimum: five feet.
 - 2. Garages.
 - (i) Maximum area: 700 square feet or 60 percent of the building area of the residence, whichever is greater.
 - (ii) Minimum area: 300 square feet per dwelling unit.
 - (iii) Every dwelling unit shall have a garage, which shall be completed before occupancy.
 - (iv) Detached garages may not have living quarters above. Wall height shall not exceed ten feet, roof pitch cannot exceed the pitch of principal building.
 - (v) Attached garages may have living quarters above. Total height of attached garages cannot exceed 35 feet.
 - (vi) No garage shall be constructed with exterior metal walls. However, metal siding is permitted, so long as each horizontal siding panel does not exceed a maximum width of 12 inches.
 - (vii) Each dwelling unit shall not have more than one garage.

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3. Garden shed.
 - (i) Maximum area: 180 square feet.
 - (ii) Building height maximum: 15 feet.
 - (iii) Only one garden shed per dwelling unit.
 - (iv) Sheds constructed exclusively from metal or plastic materials or constructed with a barn style roof are prohibited.
 - (v) All sheds must be architecturally compatible with the exterior appearance of the main structure or building.
 4. Off-street parking minimum: two spaces per unit.

(d) *Driveways and driveway curb cuts.*

- (1) All driveways must be hard surfaced, and constructed within one year of occupancy. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway, shall be constructed from concrete, shall be at least six inches thick and shall be constructed with tapered sides. Quantity of driveways to be recommended with site plan by the architectural review board and approved by the planning commission.
- (2) Plans for driveways and curb cuts shall be submitted as part of the plot plan for review by the architectural review board. Curb cuts shall be made prior to commencement of any construction. Curb cuts shall be saw cut or full replacement of curb shall be required. No mounding of dirt or gravel in the gutter or use of temporary planking shall be allowed to provide access to the construction site.

(Ord. No. 1-04, § 1, 3-1-2004; Ord. No. 6-04, § 3, 8-2-2004; Ord. No. 2022-01 , § 1, 8-15-2022)

Sec. 38-73. R-6 Manufactured/Mobile Home Park and Subdivision District.

- (a) *Permitted uses.* Manufactured/mobile home parks.
- (b) *Conditional uses.* None.
- (c) *Manufactured/mobile home park requirements.*
 - (1) *Park requirements.*
 - a. A minimum of five acres.
 - b. Forty foot minimum setbacks on all sides.
 - c. A hard surface road no less than 24 feet wide serving all manufactured or mobile home spaces.
 - d. Electricity, cable television and public sewer and water servicing all manufactured or mobile home spaces.
 - e. A central hard surface parking lot with one parking space for each three manufactured or mobile home spaces.
 - f. A separate building providing laundry facilities.
 - g. An on-site manager's office.
 - (2) *Space requirements.*
 - a. Space frontage; minimum 50 feet.

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- b. Space area: minimum 4,000 square feet.
 - c. Front yard: minimum 25 feet.
 - d. Side yards: minimum ten feet.
 - e. Rear yard: minimum 25 feet.
 - f. Off-street parking: two spaces per manufactured or mobile home.
- (3) *Park license required.* No person shall establish or operate upon property owned or controlled by him within the village a manufactured/mobile home park without having first secured a license therefor from the clerk-treasurer. The application for such a license shall be accompanied by a fee as provided in the village fee schedule for each space in the existing or proposed park. Such parks shall comply with Wis. Admin. Code ch. SPS 326, which is hereby adopted by reference. The license transfer fee is as provided in the village fee schedule.
- (4) *Additions to parks.* Licensees of manufactured/mobile home parks shall furnish information to the clerk-treasurer and assessor on such homes added to their parks within five days after their arrival on forms furnished by the clerk-treasurer.
- (d) *Parking outside licensed manufactured/mobile home parks restricted.* No occupied manufactured or mobile home shall be permitted to be located in the village unless the same is in a licensed manufactured/mobile home park, except those manufactured or mobile homes occupied outside of a manufactured/mobile home park on the effective date of the ordinance from which this section is derived; provided that this section is not intended to restrict the location of one- and two-family manufactured homes which meet the applicable one- and two-family standards set forth in Wis. Stats. ch. 101 and the requirements of this Code.
- (e) *Parking permit fees.* There is imposed on each manufactured or mobile home located in the village a parking permit fee, such amount to be determined in accordance with Wis. Stats. § 66.0435. The fees shall be paid to the clerk-treasurer, monthly, on or before the tenth day of the month for which they are due. It shall be full and complete responsibility of the licensee of a manufactured/mobile home park, and the owners of the land on which manufactured or mobile homes outside of manufactured/mobile home parks are located, to collect such fees from each manufactured or mobile home therein and to remit such fees to the clerk-treasurer. Failure to do so is to be treated like a default in payment of personal property taxes and subject to all procedures and penalties applicable under Wis. Stats. chs. 70 and 74.

(Code 1994, § 12.06; Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-74. R-5 R-PUD Residential Planned Unit Development Districts.

- (a) *Intent.* The residential planned unit development (R-PUD) overlay district regulations are intended to permit flexibility and, consequently, encourage more creative and imaginative design for residential development of a site than under conventional zoning regulations while, at the same time, preserving the health, safety, order, convenience, prosperity and general welfare of the village. The planned development procedure requires a high degree of cooperation between the developer and the village. The procedure described herein is designed to give the developer general plan approval before completing all detailed design work while providing the village with assurances that the project will retain the overall quality and character of a planned residential development envisioned at the time of approval.
- (b) *General provisions.* The plan commission may recommend and the village board may, upon the request of the owners, establish planned development overlay districts which will, over a period of time, tend to promote the maximum benefit from coordinated area site planning by permitting the diversified location of structures and mixed dwelling types and compatible uses while encouraging maximum protection and

preservation of natural resources and environmentally sensitive areas located within and impacted by such development.

- (1) *Minimum R-PUD overlay district development area.* The plan commission shall be the authority in establishing the required size of an R-PUD overlay district. Conditions to be considered by the plan commission in determining the minimum area required for R-PUD overlay district zoning may include, but are not limited to, the following:
 - a. Natural features of the land are such that development under standard zoning regulations would not be appropriate in order to conserve such features.
 - b. The land is adjacent to or across the street from property which has been developed as an R-PUD and is to be developed in relationship to such prior development.
 - c. The R-PUD process is desirable to ensure compatibility and careful consideration of the effect of a development on surrounding land uses.
 - d. Detrimental site features affecting the development potential of a site such as heavily used highways, railroad tracks traversing a property, rock outcroppings, adjacent incompatible land uses or others may also justify consideration of an area as an R-PUD in order to give the design flexibility needed to deal with site constraints.
- (2) *Permitted and accessory uses.* Permitted and accessory uses in an R-PUD overlay district shall be the same as those permitted in the underlying existing zoning district in which an R-PUD is located. If a developer desires uses different than those permitted by the existing zoning, the developer shall simultaneously petition for rezoning of the underlying existing zoning to a zoning district which permits the desired uses.
- (3) *Mixed uses.* A mix of different residential uses within an R-PUD overlay district may be permitted if the plan commission and the village board determine that the mix of uses is compatible internally and with land uses in the abutting and surrounding neighborhood and necessary to achieve the objectives of the R-PUD Overlay District.
- (4) *Number of buildings on a lot.* The R-PUD overlay district may permit more than one residential building on a lot.
- (5) *Density.* The R-PUD overlay district may permit the transfer of density (dwelling units) from one portion of the subject site to another and will permit the clustering of dwelling units in one or more locations within the total site. However, the density of use shall not exceed the density permitted in the underlying existing zoning district.
- (6) *Setbacks.* Front yard setbacks shall comply with that of the underlying zoning district. Side and rear yard setbacks are to be determined by the plan commission after considering site specific areas.
- (7) *Building requirements.* The building regulations of the underlying zoning shall be applicable for all developers.
- (8) *Temporary uses.* Real estate field offices or shelters for materials and equipment being used in the construction of a permanent structure are permitted.
- (9) *Buffers.* The plan commission may require buffers between different and potentially incompatible land uses, buildings and structures. The use and integration of existing, natural features and vegetation as well as the installation of a variety of landscaping features shall be used as buffers and is strongly encouraged. The need for buffers in an R-PUD overlay district shall be determined by the plan commission at the time of site specific plan review.
- (10) *Open space.* The plan commission may require the development area of an R-PUD overlay district to contain up to 20 percent open space as determined by the plan commission on a site-specific basis.

When deemed appropriate, the plan commission may also reduce density for open space purposes. For purposes of satisfying this requirement, the term "open space":

- a. May include floodplain area and wetland area in certain instances if permitted by the plan commission.
- b. May not include streets, driveways and front yard setback requirements.
- c. Shall be established as part of the general development plan and described and identified as to size, location, use, improvements (if any) and maintenance responsibility.

(c) *Application procedure and required information.*

- (1) *Preliminary consultation.* An applicant shall meet with the plan commission and appropriate village staff members for a preliminary consultation prior to formally submitting a rezoning petition for an R-PUD overlay district. The purpose of this preliminary consultation is to discuss the proposed request and review the local regulations and policies applicable to the project and discuss the land use implications of the proposal.
- (2) *Rezoning petition and general development plan.* The applicant shall submit a rezoning petition in accordance with the application procedure described in section 38-506. In addition to the required information noted in section 38-506, a general development plan shall be submitted to the plan commission and the village board for review 30 business days prior to any rezoning hearing. The general development plan and supporting information shall contain and/or address the following:
 - a. Plot plan of area proposed for development.
 - b. Proposed location of public utilities, public and private roads, driveways and parking facilities.
 - c. Size, arrangement and location of all proposed buildings.
 - d. Location of proposed open space areas, buffer yards and areas reserved or dedicated for public uses.
 - e. Perspective drawings and sketches illustrating the design and character of proposed structures.
 - f. Existing topography on-site with contours at no greater than two-foot intervals National Geodetic Vertical elevation.
 - g. A development phasing plan if development is to be developed in stages or phases.
- (3) *Public inspection.* The general development plan shall be available for public inspection prior to any rezoning hearing on the proposed project.
- (4) *Public hearing.* The plan commission shall hold a public hearing on the rezoning request and, following said public hearing, shall make a recommendation to the village board regarding approval/disapproval.
- (5) *Rezoning approval/disapproval.* The village board shall act on the recommendation of the plan commission regarding the rezoning petition at their next scheduled meeting.

(d) *Conditions and restrictions; preliminary plan approval.*

- (1) The plan commission may recommend and the village board may adopt, by resolution, conditions and restrictions for R-PUD overlay districts that specify permitted uses and set bulk regulations and density standards for lot coverage and dwelling unit size and distribution and yard setbacks.
- (2) Conditions and restrictions adopted to govern development within a specific R-PUD overlay district may include, but not be limited to, nonstandard or nonuniform requirements, regulations and provisions recommended by the plan commission and approved by the village board. Such nonstandard requirements, regulations and provisions shall be designed to ensure proper

development and appropriate operation and maintenance of specific developments on specific sites consistent with the intent of these regulations and commitments made by a developer at the time an R-PUD overlay district and general development plan are approved.

(e) *Detailed plans and information.*

- (1) *Submission of plans for final review.* After the R-PUD zoning has been granted and the general development plan, together with conditions imposed by either the plan commission or the village board, has been approved, detailed site plans, architectural plans and utility plans shall be submitted to the plan commission for final review prior to the execution of a developer's agreement between the developer and the village board. Other related information required may include, but is not limited to, maintenance standards and plans of operation. The detailed plan and information shall conform substantially to the general development plan as approved.
 - (2) *Required information conforming to final plat specifications.* Information to be included in the detailed plan shall conform to the following subsections of division 3, article II of chapter 32 where applicable:
 - a. *General requirements.* A final plat prepared by a registered land surveyor shall be required for all developments. It shall comply in all respects with the requirements of Wis. Stats. § 236.20.
 - b. *Additional information.* The plat shall show correctly on its face, in addition to the information required by Wis. Stats. § 236.20, the following:
 1. Exact length and bearing of the centerline and center and centerline curves of all streets.
 2. Exact street width along the right-of-way line of any obliquely intersecting street.
 3. Railroad rights-of-way within and abutting the plat.
 4. Setbacks or building lines, if required by the plan commission, in accordance with the guidelines set forth in article III of chapter 32.
 5. Utility and/or drainage easements.
 6. All lands reserved for future public acquisition or reserved for the common use of property owners within the plat.
 7. A detailed landscaping plan.
 8. Special restrictions required by the village board relating to access control along public ways and delineation of floodland limits.
 - c. *Deed restrictions.* The village board may require that deed restrictions imposed by the developer be filed with the final plat.
 - d. *Plat restrictions.* The village board may require that plat restrictions intended to reflect village plans and ordinances be placed on the face of the plat.
- (f) *Review of detailed plan.* The plan commission shall review the detailed plan and provide the developer with a list of changes and additional requirements as it deems appropriate. Upon reaching agreement with the developer, the plan commission shall forward its recommendation to the village board.
- (g) *Architectural review.* Building plans shall also be submitted to the architectural review board for their review and approval prior to the issuance of a building permit.
- (h) *Commencement of project.*
- (1) After the village board, upon recommendation of the plan commission, has approved the detailed site plans, construction of private and public amenities may commence in accordance with division 2, article IV of chapter 32.

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- (2) No building permit for residences shall be issued until building plans have been approved by the architectural review board and all applicable fees and assessments required in subsection (m) of this section and section 32-15 have been paid and either all public and private construction has been completed and approved or a developer's agreement, including a letter of credit, has been approved by the village board. For staged development, such developers' agreements shall provide for the construction of improvements and the use of common areas outside of the subject stage.
 - (3) After the village board, upon the recommendation of the plan commission, has approved the plans, the project shall be commenced within one year unless the time is extended in writing by the village board. In the event the project is not so timely commenced, the approval of the village board shall be deemed to be automatically revoked and zoning will revert back to the classification it held prior to rezoning approval.
- (i) *Recordation.* The final plat or condominium declaration shall be recorded with the county register of deeds. Plats shall be recorded only after the certificates of the director of planning function in the state department of development, of the village board, of the surveyor and those certificates required by Wis. Stats. § 236.21, are placed on the face of the plat. The clerk-treasurer shall record the plat or condominium declaration within ten days of its approval by the village board. The developer shall, however, be responsible for payment of the recording fee.
 - (j) *Duplicate plat or condominium declaration and plat to be filed.* An identical reproducible copy on stable drafting film at least four mils thick, along with the recording data, shall be placed on file with the director of public works.
 - (k) *Maintenance of project.*
 - (1) Should the owner of a planned development, homeowners' association or the condominium owners' association, in the event a condominium is created, fail to properly operate or maintain the premises according to the terms of this section or the developer's agreement, or to the extent that a nuisance is caused to occupants or neighbors, the plan commission may refuse to approve subsequent stages of the development until such time as they determine that the situation or the method of operation has been corrected. Failure to maintain the premises and/or satisfy any and all requirements contained in the approved plans, the R-PUD overlay district ordinance or developer's agreement shall constitute a violation of the city zoning regulations and be subject to the enforcement provisions set forth therein.
 - (2) Should the owner of a planned development or condominium owners' or homeowners' association fail to adequately perform maintenance functions such as snow and ice removal, weed cutting or trash disposal, the village shall have the right to perform such functions or to contract for their accomplishment at the property owner's expense.
 - (l) *Changes or revisions.*
 - (1) All proposed changes, revisions and additions to any aspect of an approved planned development project shall be submitted to the plan commission for its review. The plan commission shall determine if the change, revision or addition is minor or if it materially affects the intended design of the project and the impact of the project on neighboring uses.
 - (2) If the change is determined to be minor, the plan commission shall review the request and pass its findings to the village board, which may approve the change without a public hearing. The plan commission's decision on minor changes shall be rendered at a meeting subsequent to the meeting at which the requested change was initially presented to the plan commission.
 - (3) If the requested change is determined by the plan commission to be substantial because of its effect on the intended design of the project or on neighboring uses, a public hearing shall be held by the plan commission to review and pass its findings to the village board for final approval.

- (m) *Fees.* The developer shall pay to the village all fees and all professional expenditures incurred by the village at the time specified.
- (1) *General R-PUD plan review fee.* The developer shall pay a fee as provided in the village fee schedule for each residential unit over 25 at the time the application is filed.
 - (2) *Detailed R-PUD plan review fee.* The developer shall pay a fee as provided in the village fee schedule for each residential unit over 25 at the time the application is filed.
 - (3) *Professional fees.* The developer shall reimburse the village for all engineering, planning and legal fees incurred by the village. The village shall bill the developer monthly and payment shall be made within ten days from date of billing.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-75. Village living arrangements; family day care homes.

- (a) *State laws adopted.* The provisions of Wis. Stats. §§ 62.23(7)(i) and 66.1017 are hereby adopted and incorporated by reference.
- (b) *Permitted uses; restrictions.*

Village Living Arrangement (VLA); Family Day Care Homes	Districts Permitted	Statutory Restrictions
Foster family home (domicile licensed under Wis. Stats. § 48.62, up to 4 children	All residential districts	None
Other foster homes	All residential districts	Wis. Stats. § 62.23(7)(i)1. and 2
Adult family home (domicile, as defined in Wis. Stats. § 50.01(1), up to 4 adults, or more if all adults are siblings	All residential districts	None
Other adult family homes	All residential districts	Wis. Stats. § 62.23(7)(i)1 and 2
VLA, up to 8 persons	All residential districts	Wis. Stats. § 62.23(7)(i)1, 2 and 9
VLA, 9 to 15 persons	Multifamily districts	Wis. Stats. § 62.23(7)(i)1, 2 and 9
Family day care home licensed under Wis. Stats. § 48.65, up to 8 children	All one- and two-family districts and planned	Wis. Stats. § 66.304

	residential development districts	
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(c) *Conditional uses.* All village living arrangements and family day care homes not permitted in subsection (b) of this section.

(Ord. No. 1-04, § I, 3-1-2004)

Secs. 38-76—38-95. Reserved.

DIVISION 3. COMMERCIAL

Sec. 38-96. C-1 General Commercial District.

The C-1 district is intended to provide an area for the business and commercial needs of the village.

(1) *Permitted uses.*

- a. Post offices.
- b. General business and commercial uses which do not generate noise, smoke or odors that would create a public or private nuisance. These uses generally include the following:
 1. Banks, commercial or professional offices and telephone offices.
 2. Bed and breakfasts.
 3. Places of amusement and theaters.
 4. Personal service establishments.
 5. Parking lots.
 6. Existing one- and two-family and multifamily dwellings.
 7. Uses customarily incident to any of the above uses.

(2) *Conditional uses.*

- a. Any other uses similar in character with the permitted uses and the manufacture or treatment of products clearly incidental to the conduct of a retail business on the premises.
- b. Apartments. See subsection (3) of this section.
- c. Automobile and equipment service.
- d. Any business with a drive-through.
- e. Similar uses as determined by the planning commission.

(3) *Additional restrictions.* Uses permitted in the C-1 district are subject to the following conditions:

- a. Business uses are not permitted on any floor above the ground floor, except in those buildings or structures where dwelling units are now established.
- b. All business establishments shall be retail or service establishments dealing directly with consumers. All goods produced on the premises shall be sold at retail on the premises where produced.
- c. All business, servicing or processing, except for off-street parking or loading, shall be conducted within completely enclosed buildings.

(4) *Development standards.* Within the C-1 district, there shall be no minimum required standards or setbacks in order to provide flexibility in the redevelopment of the downtown area. However, no new or remodeled buildings may be constructed with metal exterior walls. Additionally, all new buildings shall be subject to the off-street parking and loading requirements of section 38-47.

(5) *Driveways and driveway curb cuts.*

- a. All driveways must be hard surfaced, and constructed within one year of occupancy. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway shall be constructed from concrete, shall be at least six inches thick and shall be constructed with tapered sides. Quantity of driveways to be recommended with site plan by the architectural review board and approved by the planning commission.
- b. Plans for driveways and curb cuts shall be submitted as part of the plot plan for review by the architectural review board. Curb cuts shall be made prior to commencement of any construction. Curb cuts shall be saw cut or full replacement of curb shall be required. No mounding of dirt or gravel in the gutter or use of temporary planking shall be allowed to provide access to the construction site.

(Ord. No. 1-04, § I, 3-1-2004; Ord. No. 6-04, § 3, 8-2-2004)

Sec. 38-97. C-2 Highway Commercial District.

The C-2 district is established to provide for the establishment of principally motor vehicle-oriented or dependent commercial activities in nonresidential settings. Lot dimensional requirements are established to provide for the orderly grouping of commercial uses and for adequate off-street parking.

(1) *Permitted uses.*

- a. Automotive sales, servicing and repairs.
- b. Cleaning, dyeing and pressing establishments.
- c. Department stores and discount stores.
- d. Drive-in banks and professional service offices.
- e. Drive-in establishments serving food or non-alcoholic beverages.
- f. Laundromats.
- g. Motels.
- h. Plumbing and heating shops.
- i. Printing and related trades.
- j. Recreational and entertainment establishments.
- k. Shopping centers.
- l. Supermarkets.
- m. Veterinary, medical, dental and vision clinics.

(2) *Conditional uses.*

- a. Automotive sales and service.
- b. Painting businesses.
- c. Establishments serving alcohol.
- d. Drive-in establishments serving food and beverages.
- e. Gasoline and service stations.

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- f. Businesses with a drive-through.
 - g. Other uses similar in character to the permitted uses, giving due consideration to such items as noise, odor, pollution, traffic and parking, safety, hours and type of operation.
- (3) *Lot, yard and building requirements.* No new or remodeled buildings may have exterior walls covered with panelized metal. Aluminum siding shall not be greater than 12 inches in width.
- a. Lot frontage: minimum 100 feet.
 - b. Lot area: minimum 20,000 square feet.
 - c. Front yard minimum: 25 feet, 50 feet, if parking is permitted.
 - d. Side yards: minimum 20 feet.
 - e. Rear yard: minimum 20 feet.
 - f. Front parking setback: 15 feet.
 - g. Building height: maximum 35 feet.
 - h. Number of stories: maximum 2½.
- (4) *Off-street parking and loading requirements.* See section 38-47.
- (5) *Driveways and driveway curb cuts.*
- a. All driveways must be hard surfaced, and constructed within one year of occupancy. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway shall be constructed from concrete, shall be at least six inches thick and shall be constructed with tapered sides. Quantity of driveways to be recommended with site plan by the architectural review board and approved by the planning commission.
 - b. Plans for driveways and curb cuts shall be submitted as part of the plot plan for review by the architectural review board. Curb cuts shall be made prior to commencement of any construction. Curb cuts shall be saw cut or full replacement of curb shall be required. No mounding of dirt or gravel in the gutter or use of temporary planking shall be allowed to provide access to the construction site.
- (6) *Front yard setbacks.* All front yard setbacks shall be in green space, except for sidewalks and driveways. Grass seed or sod cover shall be applied to all yards (or green space) within one year of commencement of construction.
- (7) *Refuse areas.* All dumpsters and refuse areas shall be concealed by either solid fences or shrubs that conceal the containers or refuse.

(Ord. No. 1-04, § 1, 3-1-2004; Ord. No. 5-04, § 1, 6-21-2004; Ord. No. 6-04, § 3, 8-2-2004)

Sec. 38-98. C-3 Neighborhood Commercial District.

The C-3 district is established to provide for certain low traffic retail and customer service establishments.

- (1) *Permitted uses.*
- a. Barbershops.
 - b. Beauty shops.
 - c. Dentist offices.

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- d. Doctor offices.
 - e. Gift or antique shops.
 - f. Insurance offices.
 - g. Jewelry stores.
 - h. Photography.
 - i. Professional offices.
 - j. Real estate offices.
 - k. Tailor or dressmaker shops.
- (2) *Conditional uses.* Any similar uses enumerated in subsection (1) of this section approved by the village board.
- (3) *Lot, yard and building requirements.*
- a. Lot frontage: minimum 100 feet.
 - b. Lot area: minimum 15,000 square feet.
 - c. Front yard setback: minimum 25 feet.
 - d. Side yard setback: minimum 20 feet.
 - e. Back yard setback: minimum 20 feet.
 - f. Building height: maximum 35 feet.
 - g. Number of stories: maximum 2½.
 - h. Building square footage: minimum 1,500 square feet, maximum 50 percent of lot area.
 - i. Number of businesses per building: maximum four.
- (4) *Off-street parking and loading requirements.*
- a. No parking permitted beyond the front-most extension of building. Parking permitted on sides or in the rear of building (opposite of street side) only.
 - b. Dustfree, hard surface in parking lot shall be completed within six months of occupancy. Hard surface shall be defined as concrete, asphalt or brick paving.
 - c. Parking facilities shall meet all ordinances and requirements of the village.
- (5) *Driveways and driveway curb cuts.*
- a. All driveways must be hard surfaced, and constructed within one year of occupancy. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway shall be constructed from concrete, shall be at least six inches thick and shall be constructed with tapered sides. Quantity of driveways to be recommended with site plan by the architectural review board and approved by the planning commission.
 - b. Plans for driveways and curb cuts shall be submitted as part of the plot plan for review by the architectural review board. Curb cuts shall be made prior to commencement of any construction. Curb cuts shall be saw cut or full replacement of curb shall be required. No mounding of dirt or gravel in the gutter or use of temporary planking shall be allowed to provide access to the construction site.

(6) *Signs.*

- a. Ground signs.
 1. Structure of sign not to exceed ten feet in length and six feet in height.
 2. Structure top not to exceed eight feet in height from mean centerline of road.
 3. Structure setback a minimum of ten feet from front lot line.
 4. Structure setback a minimum of 25 feet from side lot lines.
 5. Sign itself not to exceed 24 square feet in size.
 6. Sign to be indirectly lit. No flashing or blinking lights permitted.
 7. One ground sign permitted per business.
- b. Building signs/wall signs.
 1. Sign shall be mounted parallel to wall.
 2. Sign shall extend no more than one foot outward from wall.
 3. Sign not to exceed 24 square feet in size.
 4. Sign shall not exceed ten feet in height.
 5. Sign shall not protrude beyond ends of building.
 6. Sign shall not have flashing or blinking lights.
 7. One wall sign permitted per business.
- c. Window signs.
 1. Signs shall be placed only on inside of window.
 2. Signs shall not exceed 25 percent of glassed area of window.
- d. Any two signs permitted in subsections (6)a, b and c of this section are permitted on one business property.
- e. Signs shall not:
 1. Resemble, imitate or approximate the shape, size, form or color of railroad or traffic signs, signals or devices.
 2. Obstruct or interfere with the effectiveness of railroad or traffic signs, signals or devices.
 3. 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.
 4. Be placed so as to obstruct or interfere with traffic visibility nor be lighted in such a way as to cause a glare or impair driving visibility upon public ways.
 5. Be lit with flashing or blinking lights.

(7) *Green space.*

- a. Green space is an area dedicated to the planting of trees, shrubs and grass.
- b. No less than 30 percent of the entire lot shall be in green space.
- c. All front yard setbacks shall be in green space, except for sidewalks and driveways.

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- d. Grass seed or sod cover shall be applied to all yards within one year of commencement of construction.
 - (8) *Living quarters.* Living quarters permitted for owner or manager of each business only. No rental units permitted in a C-3 district.
 - (9) *Refuse areas.* All dumpsters and refuse areas shall be concealed by either solid fences or shrubs that conceal the containers or refuse.

(Ord. No. 1-04, § I, 3-1-2004; Ord. No. 6-04, § 3, 8-2-2004)

Sec. 38-99. M-1 Limited Industrial and Business Park District.

The M-1 district is intended to provide for manufacturing or industrial operation which, on the basis of actual physical and operational characteristics, would not be detrimental to the surrounding area or to the village as a whole by reason of noise, dirt, dust, smoke, odor, traffic, physical appearance or other similar factors, and subject to such regulatory controls as will reasonably ensure compatibility in this respect. Outdoor storage of raw materials or finished products is not allowed.

- (1) *Permitted uses.*
 - a. Distribution centers.
 - b. Blacksmithing, tinsmithing and sheet metal work.
 - c. Bottling plants.
 - d. Enameling and painting.
 - e. Knitting mills and the manufacture of products from finished fabrics.
 - f. Manufacture, fabrication, packing and packaging and assembly of products from furs, glass, leather (but not tanning of hides or manufacture of leather), metals, paper (but not the manufacture of paper or pulp), plaster, plastic (but not the manufacture of plastic), textiles and wood.
 - g. Manufacture, fabrication, processing, packaging and packing of confections, cosmetics, electrical appliances, electronic devices, food (except meat rendering plants, slaughtering and first processing of meat and fowl, first processing of fish, cabbage processing and the vining of peas.
 - h. Manufacture of furniture, home supplies and appliances, instruments, jewelry, office supplies, pharmaceuticals, sporting goods, tobacco products and toiletries.
 - i. Laboratories.
 - j. Warehousing.
 - k. Welding shops.
 - l. Wholesaling.
- (2) *Conditional uses.*
 - a. Storage and warehousing of fuel and materials, but not the storage of wrecked or dismantled vehicles and junk or the storage of explosives.
 - b. Other uses similar in character to the permitted uses, giving due consideration to such items as noise, odor, pollution, traffic and parking, safety, hours and type of operation.
- (3) *Lot, yard and building requirements.*

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- a. Lot frontage: minimum 100 feet.
 - b. Lot area: minimum one acre.
 - c. Front yard: minimum 40 feet.
 - d. Parking lot setback: minimum 15 feet.
- (4) *Side yards:*
- a. Principal building: minimum 20 feet.
 - b. Accessory building: minimum five feet.
 - c. Rear yard: minimum 25 feet.
 - d. Building height: maximum 35 feet.
- (5) *Off-street parking and loading requirements.* See section 38-47.
- (6) *Performance standards.* See sec. 38-36.
- (7) *Driveways and driveway curb cuts.*
- a. All driveways must be hard surfaced, and constructed within one year of occupancy. The term "hard surfaced" shall be defined as concrete, asphalt or brick paving. Additionally, a driveway apron, consisting of the first five feet of driveway extending onto the property from a public roadway shall be constructed from concrete, shall be at least six inches thick and shall be constructed with tapered sides. Quantity of driveways to be recommended with site plan by the architectural review board and approved by the planning commission.
 - b. Plans for driveways and curb cuts shall be submitted as part of the plot plan for review by the architectural review board. Curb cuts shall be made prior to commencement of any construction. Curb cuts shall be saw cut or full replacement of curb shall be required. No mounding of dirt or gravel in the gutter or use of temporary planking shall be allowed to provide access to the construction site.

(Ord. No. 1-04, § 1, 3-1-2004; Ord. No. 6-04, § 3, 8-2-2004)

Secs. 38-100—38-126. Reserved.

DIVISION 4. OTHER DISTRICTS

Sec. 38-127. A Agricultural District.

The A Agricultural District provides exclusively for agricultural uses. The intent is to help conserve good farming areas and prevent uncontrolled, uneconomical spread of residential development which results in excessive costs to the village for premature provision of essential public improvements and services.

- (1) *Permitted uses.*
 - a. Churches, schools, parks and municipal buildings.
 - b. Farming.
 - c. In-season roadside stands for the sale of farm products produced on the premises.
 - d. Water storage; and sewage disposal plants and power stations, when surrounded by an eight-foot or more woven fence.
 - e. Nurseries, greenhouses and other agricultural uses.
 - f. Uses customarily incident to any of the above uses, including residential uses incident to any of the above uses.
- (2) *Conditional uses.*
 - a. Fur farms.
 - b. Kennels.
- (3) *Lot, yard and building requirements.*
 - a. Lot frontage: minimum 200 feet.
 - b. Lot area: minimum five acres.
 - c. Residence: yard and building requirements same as R-1 district.
- (4) *Farm buildings:*
 - a. Front yard: minimum 300 feet.
 - b. Side yards: minimum 300 feet.
 - c. Rear yard: minimum 300 feet.
 - d. Building height: maximum 50 feet.
- (5) *Off-street parking and loading.* No off-street parking and loading permitted.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-128. CON Conservancy district.

The CON district is intended to preserve scenic and natural areas in the village and to prevent uncontrolled, uneconomical spread of residential development, and to help discourage intensive development of marginal lands so as to prevent potential hazards to public and private property.

- (1) Permitted uses.
 - a. Public parks and playgrounds.
 - b. Management of forestry, wildlife and fish.
 - c. Harvesting of wild crops such as marsh hay, ferns, moss, berries, tree fruits and tree seeds.
 - d. Fishing and trapping.
 - e. Dams, power stations and transmission lines.
 - f. Upon written permission from the village board, based on the purposes of this division and on the recommendation of the plan commission following a public hearing, sewage disposal plants and water pumping or storage facilities, amusement parks, golf courses and driving ranges, and public camping grounds.
 - g. Uses customarily incident to any of the above uses.
- (2) *Lot, yard and building requirements.* None.

(Ord. No. 1-04, § I, 3-1-2004)

Secs. 38-129—38-154. Reserved.

ARTICLE III. FLOODPLAIN DISTRICTS

DIVISION 1. GENERALLY

Sec. 38-155. Definitions.

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

A Zones means those areas shown on the official floodplain zoning map which would be inundated by the regional flood. These areas may be numbered or unnumbered A Zones. The A Zones may or may not be reflective of flood profiles, depending on the availability of data for a given area.

Base flood means 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.

Basement means any enclosed area of a building having its floor sub-grade (i.e., below ground level) on all sides.

Building. See *Structure*.

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

Campground means any parcel of land which is designed, maintained, intended or used for the purpose of providing sites for nonpermanent overnight use by four or more camping units, or which is advertised or represented as a camping area.

Camping unit means 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, tent or other mobile recreational vehicle.

Certificate of compliance means 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 article.

Channel means a natural or artificial watercourse with definite bed and banks to confine and conduct normal flow of water.

Crawlways or crawl space means an enclosed area below the first usable floor of a building, generally less than five feet in height, used for access to plumbing and electrical utilities.

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

Department means the state department of natural resources.

Development means 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.

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

Encroachment means any fill, structure, equipment, building, use or development in the floodway.

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

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

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

Flood or flooding means 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.

Flood frequency means 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.

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

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

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

Flood profile means 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.

Flood protection elevation means an elevation of two feet of freeboard above the water surface profile elevation designated for the regional flood. (See *Freeboard*.)

Flood storage means those floodplain areas where storage of floodwaters has been taken into account during analysis in reducing the regional flood discharge.

Floodfringe means that portion of the floodplain outside of the floodway which is covered by floodwaters during the regional flood and associated with standing water rather than flowing water.

Floodplain means land which has been or may be covered by floodwater during the regional flood. It includes the floodway and the floodfringe, and may include other designated floodplain areas for regulatory purposes.

Floodplain island means a natural geologic land formation within the floodplain that is surrounded, but not covered, by floodwater during the regional flood.

Floodplain management means policy and procedures to ensure wise use of floodplains, including mapping and engineering, mitigation, education, and administration and enforcement of floodplain regulations.

Floodproofing means 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.

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

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

Habitable structure means any structure or portion thereof used or designed for human habitation.

Hearing notice means publication or posting meeting the requirements of Wis. Stats. ch. 985. For appeals, a Class 1 notice, published once at least one week (seven days) before the hearing, is required. For all zoning ordinances and amendments, a Class 2 notice, published twice, once each week consecutively, the last at least a week (seven days) before the hearing. Local ordinances or bylaws may require additional notice, exceeding these minimums.

High flood damage potential means damage that could result from flooding that includes any danger to life or health or any significant economic loss to a structure or building and its contents.

Historic structure means any structure that is either:

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

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

Land use means any nonstructural use made of unimproved or improved real estate. (See *Development*.)

Mobile recreational vehicle means a vehicle which is built on a single chassis, 400 square feet or less when measured at the largest horizontal projection, designed to be self-propelled, carried or permanently towable by a licensed, light-duty vehicle, is licensed for highway use if registration is required and is designed primarily not for use as a permanent dwelling, but as temporary living quarters for recreational, camping, travel or seasonal use. Manufactured or mobile 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."

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

New construction means structures for which the start of construction commenced on or after the effective date of floodplain zoning regulations adopted by this village 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.

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

Nonconforming structure means an existing lawful structure or building which is not in conformity with the dimensional or structural requirements of this article 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.)

Nonconforming use means an existing lawful use or accessory use of a structure or building which is not in conformity with the provisions of this article for the area of the floodplain which it occupies. (Such as a residence in the floodway.)

Obstruction to flow means 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.

Official floodplain zoning map means that map, adopted and made part of this article, as described in section 38-160 which has been approved by the department and FEMA.

Open space use means those uses having a relatively low flood damage potential and not involving structures.

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 of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristic.

Private sewage system means 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.

Public utilities 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.

Reasonably safe from flooding means base floodwaters will not inundate the land or damage structures to be removed from the special flood hazard area and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

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

Start of construction means 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 or mobile 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.

Structure means 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.

Subdivision means has the meaning given in Wis. Stats. § 236.02(12).

Substantial damage means 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.

Unnecessary hardship means 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 article.

Variance means an authorization by the board of zoning 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.

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

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

Watershed means the entire region contributing runoff or surface water to a watercourse or body of water.

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

(Code 1994, § 18.19; Ord. No. 1- 2009, § 18.19, 3-2-2009)

Sec. 38-156. Statutory authorization.

This article is adopted pursuant to the authorization in Wis. Stats. §§ 61.35 and 62.23 and the requirements in Wis. Stats. § 87.30.

(Code 1994, § 18.10.1; Ord. No. 1- 2009, § 18.10.1, 3-2-2009)

Sec. 38-157. Finding of fact.

Uncontrolled development and use of the floodplains and rivers of this village would impair the public health, safety, convenience, general welfare and tax base.

(Code 1994, § 18.10.2; Ord. No. 1- 2009, § 18.10.2, 3-2-2009)

Sec. 38-158. Statement of purpose.

This article is intended to regulate floodplain development to:

- (1) Protect life, health property and surrounding areas;
- (2) Minimize expenditures of public funds for flood control projects;
- (3) Minimize rescue and relief efforts undertaken at the expense of the taxpayers;
- (4) Minimize business interruptions and other economic disruptions;
- (5) Minimize damage to public facilities in the floodplain;
- (6) Minimize the occurrence of future flood blight areas in the floodplain;
- (7) Discourage the victimization of unwary land and homebuyers;
- (8) Prevent increases in flood heights that could increase flood damage and result in conflicts between property owners; and
- (9) Discourage development in a floodplain if there is any practicable alternative to locate the activity, use or structure outside of the floodplain.

(Code 1994, § 18.10.3; Ord. No. 1- 2009, § 18.10.3, 3-2-2009)

Sec. 38-159. Areas to be regulated.

This article regulates all areas that would be covered by the regional flood or base flood.

(Code 1994, § 18.10.5(1); Ord. No. 1- 2009, § 18.10.5(1), 3-2-2009)

Sec. 38-160. Official maps and revisions.

- (a) The boundaries of all floodplain districts are designated as floodplains or A-Zones on the maps listed below. Any change to the base flood elevations (BFE) in the flood insurance study (FIS) or on the flood insurance rate map (FIRM) must be reviewed and approved by the DNR and FEMA before it is effective. No changes to regional flood elevations (RFEs) on non-FEMA maps shall be effective until approved by the DNR. These maps and revisions are on file in the office of the village clerk-treasurer. If more than one map or revision is referenced, the most restrictive information shall apply.

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- (b) Official maps, based on the FIS, flood insurance rate map (FIRM), panel number 55117C0430F and 55117C0440F dated April 2, 2009; with corresponding profiles that are based on the flood insurance study (FIS) dated April 2, 2009—55117CV000A.

(Code 1994, § 18.10.5(2); Ord. No. 1- 2009, § 18.10.5(2), 3-2-2009)

Sec. 38-161. Establishment of districts.

The regional floodplain areas are divided into three districts as follows:

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

(Code 1994, § 18.10.5(3); Ord. No. 1- 2009, § 18.10.5(3), 3-2-2009)

Sec. 38-162. Locating floodplain boundaries.

Discrepancies between boundaries on the official floodplain zoning map and actual field conditions shall be resolved using the criteria in subsections (1) and (2) of this section. If a significant difference exists, the map shall be amended according to section 38-357. The zoning administrator can rely on a boundary derived from a profile elevation to grant or deny a land use permit, whether or not a map amendment is required. The zoning administrator shall be responsible for documenting actual pre-development field conditions and the basis upon which the district boundary was determined and for initiating any map amendments required under this section. Disputes between the zoning administrator and an applicant over the district boundary line shall be settled according to section 38-356 and the criteria in subsections (1) and (2) of this section.

- (1) If flood profiles exist, the map scale and the profile elevations shall determine the district boundary. The regional or base flood elevations shall govern if there are any discrepancies.
- (2) Where flood profiles do not exist, the location of the boundary shall be determined by the map scale, visual on-site inspection and any information provided by the department.

(Code 1994, § 18.10.5(4); Ord. No. 1- 2009, § 18.10.5(4), 3-2-2009)

Sec. 38-163. Removal of lands from floodplain.

Compliance with the provisions of this article 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 section 38-357.

(Code 1994, § 18.10.5(5); Ord. No. 1- 2009, § 18.10.5(5), 3-2-2009)

Sec. 38-164. Compliance.

Any development or use within the areas regulated by this article shall be in compliance with the terms of this article, and other applicable local, state, and federal regulations.

(Code 1994, § 18.10.5(6); Ord. No. 1- 2009, § 18.10.5(6), 3-2-2009)

Sec. 38-165. Municipalities and state agencies regulated.

Unless specifically exempted by law, all cities, villages, towns, and counties are required to comply with this article and obtain all necessary permits. State agencies are required to comply if Wis. Stats. § 13.48(13), applies. The construction, reconstruction, maintenance and repair of state highways and bridges by the state department of transportation is exempt when Wis. Stats. § 30.2022, applies.

(Code 1994, § 18.10.5(7); Ord. No. 1- 2009, § 18.10.5(7), 3-2-2009)

Sec. 38-166. Abrogation and greater restrictions.

- (a) This article supersedes all the provisions of any municipal zoning ordinance enacted under Wis. Stats. § 59.69, 59.692 or 59.694 for counties; Wis. Stats. § 62.23 for cities; Wis. Stats. § 61.35 for villages; or Wis. Stats. § 87.30, which relate to floodplains. If another ordinance is more restrictive than this article, that ordinance shall continue in full force and effect to the extent of the greater restrictions, but not otherwise.
- (b) This article is not intended to repeal, abrogate or impair any existing deed restrictions, covenants or easements. If this article imposes greater restrictions, the provisions of this article shall prevail.

(Code 1994, § 18.10.5(8); Ord. No. 1- 2009, § 18.10.5(8), 3-2-2009)

Sec. 38-167. Interpretation.

In their interpretation and application, the provisions of this article are the minimum requirements liberally construed in favor of the village board and are not a limitation on or repeal of any other powers granted by the state statutes. If a provision of this article, required by Wis. Admin. Code ch. NR 116, is unclear, the provision shall be interpreted in light of the standards in effect on the date of the adoption of this article or in effect on the date of the most recent text amendment to this article.

(Code 1994, § 18.10.5(9); Ord. No. 1- 2009, § 18.10.5(9), 3-2-2009)

Sec. 38-168. Warning and disclaimer of liability.

The flood protection standards in this article are based on engineering experience and scientific research. Larger floods may occur or the flood height may be increased by manmade or natural causes. This article does not imply or guarantee that nonfloodplain areas or permitted floodplain uses will be free from flooding and flood damages. Nor does this article 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 article.

(Code 1994, § 18.10.5(10); Ord. No. 1- 2009, § 18.10.5(10), 3-2-2009)

Sec. 38-169. Areas for cities and villages.

The 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 village adopts and enforces an ordinance which meets the requirements of Wis. Admin. Code ch. NR 116 and the National Flood Insurance Program (NFIP). These annexed lands are described on the village's official zoning map. County floodplain zoning provisions are incorporated by reference for the purpose of administering this section and are on file in the office of the municipal zoning

administrator. All plats or maps of annexation shall show the regional flood elevation and the location of the floodway.

(Code 1994, § 18.10.5(12); Ord. No. 1- 2009, § 18.10.5(12), 3-2-2009)

Sec. 38-170. General development standards.

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

(Code 1994, § 18.10.5(13); Ord. No. 1- 2009, § 18.10.5(13), 3-2-2009)

Secs. 38-171—38-193. Reserved.

DIVISION 2. STANDARDS APPLICABLE TO ALL FLOODPLAIN DISTRICTS

Sec. 38-194. Hydraulic and hydrologic analyses.

- (a) Except as allowed in subsection (c) of this section, no floodplain development shall:
 - (1) Obstruct flow, defined as development which blocks the conveyance of floodwaters by itself or with other development, increasing regional flood height; or
 - (2) Increase regional flood height due to floodplain storage area lost, which equals or exceeds 0.01 foot.
- (b) The zoning administrator shall deny permits if it is determined the proposed development will obstruct flow or increase regional flood heights 0.01 foot or more, based on the officially adopted FIRM or other adopted map, unless the provisions of subsection (c) of this section are met.
- (c) Obstructions or increases equal to or greater than 0.01 foot may only be permitted if amendments are made to this article, the official floodplain zoning maps, floodway lines and water surface profiles, in accordance with section 38-357.

(Code 1994, § 18.11.1; Ord. No. 1- 2009, § 18.11.1, 3-2-2009)

Sec. 38-195. Watercourse alterations.

- (a) No land use permit to alter or relocate a watercourse in a mapped floodplain shall be issued until the local official has notified in writing all adjacent municipalities, the department and FEMA regional offices and required the applicant to secure all necessary state and federal permits. The flood carrying capacity of any altered or relocated watercourse shall be maintained.
- (b) As soon as is practicable, but not later than six months after the date of the watercourse alteration or relocation, the zoning administrator shall notify FEMA of the changes by submitting appropriate technical or scientific data in accordance with NFIP guidelines that shall be used to revise the FIRM, risk premium rates and floodplain management regulations as required.

(Code 1994, § 18.11.2; Ord. No. 1- 2009, § 18.11.2, 3-2-2009)

Sec. 38-196. Development requiring state permit.

Development which requires a permit from the department, under Wis. Stats. chs. 30 and 31, such as docks, piers, wharves, bridges, culverts, dams and navigational aids, may be allowed if the necessary permits are obtained and amendments to the floodway lines, water surface profiles, BFEs established in the FIS, or other data from the officially adopted FIRM, or other floodplain zoning maps or the floodplain zoning ordinance are made according to section 38-357.

(Code 1994, § 18.11.3; Ord. No. 1- 2009, § 18.11.3, 3-2-2009)

Sec. 38-197. Public or private campgrounds.

Public or private campgrounds shall have a low flood damage potential and shall meet the following provisions:

- (1) The campground is approved by the department of health and family services.
- (2) A land use permit for the campground is issued by the zoning administrator.
- (3) The character of the river system and the elevation of the campground is such that a 72-hour warning of an impending flood can be given to all campground occupants.
- (4) There is an adequate flood warning procedure for the campground that offers the minimum notice required under this section to all persons in the campground. This procedure shall include a written agreement between the campground owner, the municipal emergency government coordinator and the chief law enforcement official which specifies the flood elevation at which evacuation shall occur, personnel responsible for monitoring flood elevations, types of warning systems to be used and the procedures for notifying at-risk parties, and the methods and personnel responsible for conducting the evacuation.
- (5) This agreement shall be for no more than one calendar year, at which time the agreement shall be reviewed and updated by the officials identified in subsection (4) of this section to remain in compliance with all applicable regulations, including those of the state department of health and family services and all other applicable regulations.
- (6) Only camping units are allowed.
- (7) The camping units may not occupy any site in the campground for more than 180 consecutive days, at which time the camping unit must be removed from the floodplain for a minimum of 24 hours.
- (8) All camping units that remain on-site for more than 30 days shall be issued a limited authorization by the campground operator, a written copy of which is kept on file at the campground. Such authorization shall allow placement of a camping unit for a period not to exceed 180 days and shall ensure compliance with all the provisions of this section.
- (9) The village shall monitor the limited authorizations issued by the campground operator to ensure compliance with the terms of this section.
- (10) All camping units that remain in place for more than 180 consecutive days must meet the applicable requirements in either subdivisions II and III, division 3, article III of this chapter for the floodplain district in which the structure is located.
- (11) The campground shall have signs clearly posted at all entrances warning of the flood hazard and the procedures for evacuation when a flood warning is issued.
- (12) All service facilities, including, but not limited to, refuse collection, electrical service, natural gas lines, propane tanks, sewage systems and wells shall be properly anchored and placed at or floodproofed to the flood protection elevation.

(Code 1994, § 18.11.4; Ord. No. 1- 2009, § 18.11.4, 3-2-2009)

Sec. 38-198. Floodproofing.

- (a) No permit or variance shall be issued until the applicant submits a plan certified by a registered professional engineer or architect that the floodproofing measures will protect the structure or development to the flood protection elevation.

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- (b) Floodproofing measures shall be designed to:
- (1) Withstand flood pressures, depths, velocities, uplift and impact forces and other regional flood factors;
 - (2) Protect structures to the flood protection elevation;
 - (3) Anchor structures to foundations to resist flotation and lateral movement; and
 - (4) Ensure that structural walls and floors are watertight to the flood protection elevation, and the interior remains completely dry during flooding without human intervention.
- (c) Floodproofing measures could include:
- (1) Reinforcing walls and floors to resist rupture or collapse caused by water pressure;
 - (2) Adding mass or weight to prevent flotation;
 - (3) Placing essential utilities above the flood protection elevation;
 - (4) Installing surface or subsurface drainage systems to relieve foundation wall and basement floor pressures;
 - (5) Constructing water supply wells and waste treatment systems to prevent the entry of floodwaters;
 - (6) Putting cutoff valves on sewer lines or eliminating gravity flow basement drains.

(Code 1994, § 18.16.5)

Sec. 38-199. Public information.

The public shall be informed in the following manner:

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

(Code 1994, § 18.16.6)

Secs. 38-200—38-221. Reserved.

DIVISION 3. SPECIFIC DISTRICTS

Subdivision I. In General

Secs. 38-222—38-250. Reserved.

Subdivision II. Floodway District (FW)

Sec. 38-251. Applicability.

This section applies to all floodway areas on the floodplain zoning maps and those identified pursuant to section 38-300.

(Code 1994, § 18.12.1)

Sec. 38-252. Permitted uses.

The following open space uses are allowed in the floodway district and the floodway areas of the general floodplain district, if:

- (1) They are not prohibited by any other ordinance;
- (2) They meet the standards in section 38-253 and 38-254; and
- (3) All permits or certificates have been issued according to section 38-348:
 - 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 section 38-253(d).
 - d. Uses or structures accessory to open space uses, or classified as historic structures that comply with sections 38-253 and 38-254.
 - e. Extraction of sand, gravel or other materials that comply with section 38-253(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 Wis. Stats. chs. 30 and 31.
 - g. Public utilities, streets and bridges that comply with section 38-253(c).

(Code 1994, § 18.12.2)

Sec. 38-253. Standards for development.

(a) *Generally.*

- (1) Any development in floodway areas shall comply with division 2, article III of this chapter and have a low flood damage potential.
- (2) Applicants shall provide the following data to determine the effects of the proposal according to section 38-194:
 - a. A cross section elevation view of the proposal, perpendicular to the watercourse, showing if the proposed development will obstruct flow; or
 - b. An analysis calculating the effects of this proposal on regional flood height.
- (3) The zoning administrator shall deny the permit application if the project will increase flood elevations upstream or downstream 0.01 foot or more, based on the data submitted for subsection (b) of this section.

(b) *Structures.* Structures accessory to permanent open space uses or functionally dependent on a waterfront location may be allowed by permit if the structures comply with the following criteria:

- (1) The structure is not designed for human habitation and does not have a high flood damage potential;
- (2) It must be anchored to resist flotation, collapse, and lateral movement;
- (3) Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
- (4) It must not obstruct flow of floodwaters or cause any increase in flood levels during the occurrence of the regional flood.

(c) *Public utilities, streets and bridges.* Public utilities, streets and bridges may be allowed by permit, if:

- (1) Adequate floodproofing measures are provided to the flood protection elevation; and
- (2) Construction meets the development standards of section 38-194.

(d) *Fills or deposition of materials.* Fills or deposition of materials may be allowed by permit, if:

- (1) The requirements of section 38-194 are met;
- (2) No material is deposited in the navigable channel unless a permit is issued by the department pursuant to Wis. Stats. ch. 30, and a permit pursuant to section 404 of the Federal Water Pollution Control Act, Amendments of 1972, 33 USC 1344 has been issued, if applicable, and the other requirements of this section are met;
- (3) The fill or other materials will be protected against erosion by riprap, vegetative cover, sheet piling or bulkheading; and
- (4) The fill is not classified as a solid or hazardous material.

(Code 1994, § 18.12.3)

Sec. 38-254. Prohibited uses.

All uses not listed as permitted uses in section 38-252 are prohibited, including the following uses:

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

(Code 1994, § 18.12.4)

Secs. 38-255—38-271. Reserved.

Subdivision III. Floodfringe District (FF)

Sec. 38-272. Applicability.

This section applies to all floodfringe areas shown on the floodplain zoning maps and those identified pursuant to section 38-300.

(Code 1994, § 18.13.1)

Sec. 38-273. Permitted uses.

Any structure, land use, or development is allowed in the floodfringe district if the standards in section 38-274 are met, the use is not prohibited by this or any other ordinance or regulation and all permits or certificates specified in section 38-348 have been issued.

(Code 1994, § 18.13.2)

Sec. 38-274. Standards for development.

Section 38-194 shall apply in addition to the following requirements according to the use requested:

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

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- a. The elevation of the lowest floor, excluding the basement or crawlway, shall be at or above the flood protection elevation on fill. The fill shall be one foot or more above the regional flood elevation extending at least 15 feet beyond the limits of the structure. The department may authorize other floodproofing measures if the elevations of existing streets or sewer lines makes compliance with the fill standards impractical.
 - b. The basement or crawlway floor may be placed at the regional flood elevation if it is floodproofed to the flood protection elevation. No basement or crawlway floor is allowed below the regional flood elevation.
 - c. Contiguous dryland access shall be provided from a structure to land outside of the floodplain, except as provided in subsection (1)d of this section.
 - d. In developments where existing street or sewer line elevations make compliance with subsection (1)c of this section impractical, the village may permit new development and substantial improvements where access roads are at or below the regional flood elevation, if:
 1. The village has written assurance from police, fire and emergency services that rescue and relief will be provided to the structure by wheeled vehicles during a regional flood event; or
 2. The village has a natural disaster plan approved by state emergency management and the department.
- (2) *Accessory structures or uses.*
- a. Except as provided in subsection (2)b of this section, an accessory structure which is not connected to a principal structure may be constructed with its lowest floor at or above the regional flood elevation.
 - b. An accessory structure which is not connected to the principal structure and which is less than 600 square feet in size and valued at less than \$10,000.00 may be constructed with its lowest floor no more than two feet below the regional flood elevation if it is subject to flood velocities of no more than two feet per second and it meets all of the provisions of section 38-253(b) (a),(b),(c) and (d) and subsection (5) of this section.
- (3) *Commercial uses.* Any commercial structure which is erected, altered or moved into the floodfringe area shall meet the requirements of subsection (1) of this section. Subject to the requirements of subsection (5) of this section, 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.
- (4) *Manufacturing and industrial uses.* Any manufacturing or industrial structure which is erected, altered or moved into the floodfringe area shall be protected to the flood protection elevation using fill, levees, floodwalls, or other floodproofing measures in section 38-198. Subject to the requirements of subsection (5) of this section, 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.
- (5) *Storage of materials.* Materials that are buoyant, flammable, explosive, or injurious to property, water quality or human, animal, plant, fish or aquatic life shall be stored at or above the flood protection elevation or floodproofed in compliance with section 38-198. Adequate measures shall be taken to ensure that such materials will not enter the water body during flooding.
- (6) *Public utilities, streets and bridges.* All utilities, streets and bridges shall be designed to be compatible with comprehensive floodplain development plans; and
- a. When failure of public utilities, streets and bridges would endanger public health or safety, or where such facilities are deemed essential, construction of and substantial improvements to such

facilities may only be permitted if they are floodproofed in compliance with section 38-198 to the flood protection elevation;

- b. 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.
- (7) *Sewage systems.* All on-site sewage disposal systems shall be floodproofed, pursuant to section 38-198, to the flood protection elevation and shall meet the provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.
 - (8) *Wells.* All wells shall be floodproofed, pursuant to section 38-198, to the flood protection elevation and shall meet the provisions of Wis. Admin. Code chs. NR 811 and 812.
 - (9) *Solid waste disposal sites.* Disposal of solid or hazardous waste is prohibited in floodfringe areas.
 - (10) *Deposition of materials.* Any deposited material must meet all the provisions of this subdivision.
 - (11) *Manufactured or mobile homes.*
 - a. Owners or operators of all manufactured/mobile home parks and subdivisions shall provide adequate surface drainage to minimize flood damage, and prepare, secure approval and file an evacuation plan, indicating vehicular access and escape routes, with local emergency management authorities.
 - b. In existing manufactured/mobile home parks, all new homes, replacement homes on existing pads, and substantially improved homes shall:
 - 1. Have the lowest floor elevated to the flood protection elevation; and
 - 2. Be anchored so they do not float, collapse or move laterally during a flood.
 - c. Outside of existing manufactured/mobile home parks, including new manufactured/mobile home parks and all single units outside of existing parks, all new, replacement and substantially improved manufactured homes shall meet the residential development standards for the floodfringe in subsection (1) of this section.
 - (12) *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 subsections (11)(b) and (c) of this section. 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.

(Code 1994, § 18.13.3)

Secs. 38-275—38-296. Reserved.

Subdivision IV. General Floodplain District (GFP)

Sec. 38-297. Applicability.

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

(Code 1994, § 18.14.1)

Sec. 38-298. Permitted uses.

Pursuant to section 38-300, it shall be determined whether the proposed use is located within a floodway or floodfringe area. Those uses permitted in floodway (section 38-252) and floodfringe areas (section 38-273) are allowed within the general floodplain district, according to the standards of section 38-299, provided that all permits or certificates required under section 38-348 have been issued.

(Code 1994, § 18.14.2)

Sec. 38-299. Standards for development.

Subdivision II, division 3, article III of this chapter applies to floodway areas and subdivision III, division 3, article III of this chapter applies to floodfringe areas. The rest of this subdivision applies to either district.

(Code 1994, § 18.14.3)

Sec. 38-300. Determining floodway and floodfringe limits.

Upon receiving an application for development within the general floodplain district, the zoning administrator shall:

- (1) Require the applicant to submit two copies of an aerial photograph or a plan which shows the proposed development with respect to the general floodplain district limits, stream channel, and existing floodplain developments, along with a legal description of the property, fill limits and elevations, building floor elevations and floodproofing measures.
- (2) Require the applicant to furnish any of the following information deemed necessary by the department to evaluate the effects of the proposal upon flood height and flood flows, regional flood elevation and to determine floodway boundaries:
 - a. A typical valley cross section showing the stream channel, the floodplain adjoining each side of the channel, the cross sectional area to be occupied by the proposed development, and all historic high water information;
 - b. Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage elevations; size, location and layout of all proposed and existing structures on the site; location and elevations of streets, water supply, and sanitary facilities; soil types and other pertinent information;
 - c. Profile showing the slope of the bottom of the channel or flow line of the stream;
 - d. Specifications for building construction and materials, floodproofing, filling, dredging, channel improvement, storage, water supply and sanitary facilities.
- (3) Transmit one copy of the information described in subsections (1) and (2) of this section to the department regional office along with a written request for technical assistance to establish regional flood elevations and, where applicable, floodway data. Where the provisions of section 38-352 apply, the applicant shall provide all required information and computations to delineate floodway boundaries and the effects of the project on flood elevations.

(Code 1994, § 18.14.4)

Secs. 38-301—38-318. Reserved.

DIVISION 4. NONCONFORMING USES

Sec. 38-319. General standards.

- (a) Applicability. If these standards conform with Wis. Stats. § 62.23(7)(h), 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 division 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 division 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 division. The terms "modification" and "addition" include, but are not limited to, any alteration, addition, modification, structural repair, rebuilding or replacement of any such existing use, structure or accessory structure or use. Ordinary maintenance repairs are not considered an extension, modification or addition; these include painting, decorating, paneling and the replacement of doors, windows and other nonstructural components and the maintenance, repair or replacement of existing private sewage or water supply systems or connections to public utilities. Ordinary maintenance repairs do not include any costs associated with the repair of a damaged structure. The construction of a deck that does not exceed 200 square feet and that is adjacent to the exterior wall of a principal structure is not an extension, modification or addition. The roof of the structure may extend over a portion of the deck 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 division;
 - (3) The village shall keep a record which lists all nonconforming uses and nonconforming structures, their present equalized assessed value, the cost of all modifications or additions which have been permitted, and the percentage of the structure's total current value those modifications represent;
 - (4) 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 percent of its present equalized assessed value, shall be allowed unless the entire structure is permanently changed to a conforming structure with a conforming use in compliance with the applicable requirements of this division. Contiguous dry land access must be provided for residential and commercial uses in compliance with section 38-274(1). The costs of elevating a nonconforming building or a building with a nonconforming use to the flood protection elevation are excluded from the 50 percent provisions of this subsection:
 - a. Except as provided in subsection (b)(4)b of this section, if any nonconforming structure or any structure with a nonconforming use is destroyed or is substantially damaged, it cannot be replaced, reconstructed or rebuilt unless the use and the structure meet the current ordinance requirements. A structure is considered substantially damaged if the total cost to restore the structure to its pre-damaged condition equals or exceeds 50 percent of the structure's present equalized assessed value;
 - b. For nonconforming buildings that are damaged or destroyed by a nonflood disaster, the repair or reconstruction of any such nonconforming building may be permitted in order to restore it after the nonflood disaster, provided that the nonconforming building will meet all of the minimum

requirements under applicable FEMA regulations (44 CFR 60), or the regulations promulgated thereunder;

- (5) A nonconforming historic structure may be altered if the alteration will not preclude the structures continued designation as a historic structure, the alteration will comply with section 38-253(a), flood resistant materials are used, and construction practices and floodproofing methods that comply with section 38-198 are used.

(Code 1994, § 18.15.1)

Sec. 38-320. Floodway areas.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use in a floodway area, unless such modification or addition:
- (1) Has been granted a permit or variance which meets all ordinance requirements;
 - (2) Meets the requirements of section 38-319;
 - (3) Will not increase the obstruction to flood flows or regional flood height;
 - (4) Any addition to the existing structure shall be floodproofed, pursuant to section 38-198, by means other than the use of fill, to the flood protection elevation;
 - (5) If any part of the foundation below the flood protection elevation is enclosed, the following standards shall apply:
 - a. The enclosed area shall be designed by a registered architect or engineer to allow for the efficient entry and exit of floodwaters without human intervention. A minimum of two openings must be provided with a minimum net area of at least one square inch for every one square foot of the enclosed area. The lowest part of the opening can be no more than 12 inches above the adjacent grade;
 - b. The parts of the foundation located below the flood protection elevation must be constructed of flood-resistant materials;
 - c. Mechanical and utility equipment must be elevated or floodproofed to or above the flood protection elevation; and
 - d. The use must be limited to parking or limited storage.
- (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 a floodway area. Any replacement, repair or maintenance of an existing on-site sewage disposal system in a floodway area shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code ch. SPS 383.
- (c) No new well or modification to an existing well used to obtain potable water shall be allowed in a floodway area. Any replacement, repair or maintenance of an existing well in a floodway area shall meet the applicable requirements of all municipal ordinances and Wis. Admin. Code chs. NR 811 and 812.

(Code 1994, § 18.15.2)

Sec. 38-321. Floodfringe areas.

- (a) No modification or addition shall be allowed to any nonconforming structure or any structure with a nonconforming use unless such modification or addition has been granted a permit or variance by the village, and the modification or addition shall be placed on fill or floodproofed to the flood protection elevation in compliance with the standards for that particular use in section 38-274, except where section 38-321(b) is applicable.
- (b) Where compliance with the provisions of subsection (a) of this section 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, using the procedures established in section 38-356, may grant a variance from those provisions of subsection (a) of this section for modifications or additions, using the criteria listed below. Modifications or additions which are protected to elevations lower than the flood protection elevation may be permitted if:
 - (1) No floor is allowed below the regional flood elevation for residential or commercial structures;
 - (2) Human lives are not endangered;
 - (3) Public facilities, such as water or sewer, will 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 will not be used for storage of materials as described in section 38-274(5).
- (c) If neither the provisions of subsection (a) or (b) of this section can be met, one addition to an existing room in a nonconforming building or a building with a nonconforming use may be allowed in the floodfringe, if the addition:
 - (1) Meets all other regulations and will be granted by permit or variance;
 - (2) Does not exceed 60 square feet in area; and
 - (3) In combination with other previous modifications or additions to the building, does not equal or exceed 50 percent of the present equalized assessed value of the building.
- (d) All new private sewage disposal systems, or addition to, replacement, repair or maintenance of a private sewage disposal system shall meet all the applicable provisions of all local ordinances and Wis. Admin. Code ch. SPS 383.
- (e) All new wells, or addition to, replacement, repair or maintenance of a well shall meet the applicable provisions of this division and Wis. Admin. Code chs. NR 811 and 812.

(Code 1994, § 18.15.3)

Secs. 38-322—38-345. Reserved.

DIVISION 5. ADMINISTRATION AND ENFORCEMENT

Sec. 38-346. Enforcement and penalties.

Any violation of the provisions of this division by any person shall be unlawful and shall be referred to the municipal attorney who shall expeditiously prosecute all such violators. A violator shall, upon conviction, forfeit to the village a penalty of not less than \$25.00 and not more than \$200.00, together with a taxable cost of such action. Each day of continued violation shall constitute a separate offense. Every violation of this division is a public nuisance and the creation may be enjoined and the maintenance may be abated by action at suit of the village, the state, or any citizen thereof pursuant to Wis. Stats. § 87.30.

(Code 1994, § 18.18)

Sec. 38-347. Administration.

Where a zoning administrator, planning agency or a board of zoning appeals has already been appointed to administer a zoning ordinance adopted under Wis. Stats. § 62.23(7), these officials shall also administer this division.

(Code 1994, § 18.16(intro.))

Sec. 38-348. Zoning administrator.

- (a) The zoning administrator is authorized to administer this division and shall have the following duties and powers:
- (1) Advise applicants of the ordinance provisions, assist in preparing permit applications and appeals, and ensure that the regional flood elevation for the proposed development is shown on all permit applications.
 - (2) Issue permits and inspect properties for compliance with provisions of this division, and issue certificates of compliance where appropriate.
 - (3) Inspect all damaged floodplain structures and perform a substantial damage assessment to determine if substantial damage to the structures has occurred.
 - (4) Keep records of all official actions such as:
 - a. All permits issued, inspections made, and work approved;
 - b. Documentation of certified lowest floor and regional flood elevations for floodplain development;
 - c. Records of water surface profiles, floodplain zoning maps and ordinances, nonconforming uses and structures including changes, appeals, variances and amendments;
 - d. All substantial damage assessment reports for floodplain structures.
 - (5) Submit copies of the following items to the department regional office:

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- a. Within ten days of the decision, a copy of any decisions on variances, appeals for map or text interpretations, and map or text amendments;
 - b. Copies of any case-by-case analyses, and any other information required by the department including an annual summary of the number and types of floodplain zoning actions taken;
 - c. Copies of substantial damage assessments performed and all related correspondence concerning the assessments.
- (6) Investigate, prepare reports, and report violations of this division to the municipal zoning agency and attorney for prosecution. Copies of the reports shall also be sent to the department regional office.
 - (7) Submit copies of text and map amendments and biennial reports to the FEMA regional office.

(Code 1994, § 18.16.1(1))

Sec. 38-349. Land use permit.

A land use permit shall be obtained before any new development or any structural repair or change in the use of a building or structure, including sewer and water facilities, may be initiated.

(Code 1994, § 18.16.1(2)(intro.))

Sec. 38-350. General information.

Application to the zoning administrator shall include:

- (1) Name and address of the applicant, property owner and contractor;
- (2) Legal description, proposed use, and whether it is new construction or a modification.

(Code 1994, § 18.16.1(2)(a))

Sec. 38-351. Site development plan.

A site plan drawn to scale shall be submitted with the permit application form and shall contain:

- (1) Location, dimensions, area and elevation of the lot;
- (2) Location of the ordinary high water mark of any abutting navigable waterways;
- (3) Location of any structures with distances measured from the lot lines and street centerlines;
- (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 subdivisions II and III, division 3, article III of this chapter are met; and

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- (9) Data to determine if the proposed development will cause an obstruction to flow or an increase in regional flood height or discharge according to section 38-194. This may include any of the information noted in section 38-251.

(Code 1994, § 18.16.1(2)(b))

Sec. 38-352. Data requirements to analyze developments.

The applicant shall provide all survey data and computations required to show the effects of the project on flood heights, velocities and floodplain storage, for all subdivision proposals, as the term "subdivision" is defined in Wis. Stats. ch. 236, and other proposed developments exceeding five acres in area or where the estimated cost exceeds \$125,000.00. The applicant shall provide:

- (1) An analysis of the effect of the development on the regional flood profile, velocity of flow and floodplain storage capacity;
- (2) A map showing location and details of vehicular access to lands outside the floodplain; and
- (3) A surface drainage plan showing how flood damage will be minimized.

The estimated cost of the proposal shall include all structural development, landscaping, access and road development, utilities, and other pertinent items, but need not include land costs.

(Code 1994, § 18.16.1(2)(c))

Sec. 38-353. Expiration.

All permits issued under the authority of this division shall expire two years after issuance.

(Code 1994, § 18.16.1(2)(d))

Sec. 38-354. Certificate of compliance.

No land shall be occupied or used, and no building which is hereafter constructed, altered, added to, modified, repaired, rebuilt or replaced shall be occupied until a certificate of compliance is issued by the zoning administrator, except where no permit is required, subject to the following provisions:

- (1) The certificate of compliance shall show that the building or premises or part thereof, and the proposed use, conform to the provisions of this division;
- (2) Application for such certificate shall be concurrent with the application for a permit;
- (3) If all ordinance provisions are met, the certificate of compliance shall be issued within ten days after written notification that the permitted work is completed;
- (4) The applicant shall submit a certification signed by a registered professional engineer, architect or land surveyor that the fill, lowest floor and floodproofing elevations are in compliance with the permit issued. Floodproofing measures also require certification by a registered professional engineer or architect that floodproofing measures meet the requirements of section 38-198.

(Code 1994, § 18.16.1(3))

Sec. 38-355. Other permits.

The applicant must secure all necessary permits from federal, state, and local agencies, including those required by the U.S. Army Corps of Engineers under section 404 of the Federal Water Pollution Control Act, amendments of 1972, 33 USC 1344.

(Code 1994, § 18.16.1(4))

Sec. 38-356. Board of zoning appeals.

The board of zoning appeals is authorized to hear and decide appeals, variances and boundary disputes with regard to this division. It is hereby authorized or shall be appointed to act for the purposes of this division.

(Code 1994, § 18.16.3)

Sec. 38-357. Amendments—Generally.

The village board may change or supplement the floodplain zoning district boundaries and this division in the manner provided by law. Actions which require an amendment include, but are not limited to, the following:

- (1) Any change to the official floodplain zoning map, including the floodway line or boundary of any floodplain area.
- (2) Correction of discrepancies between the water surface profiles and floodplain zoning maps.
- (3) Any fill in the floodplain which raises the elevation of the filled area to a height at or above the flood protection elevation and is contiguous to land lying outside the floodplain.
- (4) Any fill or floodplain encroachment that obstructs flow, increasing regional flood height 0.01 foot or more.
- (5) Any upgrade to a floodplain zoning ordinance text required by Wis. Admin. Code § NR 116.05, or otherwise required by law, or for changes by the village.
- (6) 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.

(Code 1994, § 18.17.1)

Sec. 38-358. Same—Procedures.

Ordinance amendments may be made upon petition of any interested party according to the provisions of Wis. Stats. § 62.23. Such petitions shall include all necessary data required by sections 38-300 and 38-348(1).

- (1) The proposed amendment shall be referred to the zoning agency for a public hearing and recommendation to the governing body. The amendment and notice of public hearing shall be submitted to the department regional office for review prior to the hearing. The amendment procedure shall comply with the provisions of Wis. Stats. § 62.23.
- (2) No amendments shall become effective until reviewed and approved by the department.
- (3) All persons petitioning for a map amendment that obstructs flow, increasing regional flood height 0.01 foot or more, shall obtain flooding easements or other appropriate legal arrangements from all

adversely affected property owners and notify local units of government before the amendment can be approved by the governing body.

- (4) For amendments in areas with no water surface profiles, the zoning agency or board shall consider data submitted by the department, the zoning administrator's visual on-site inspections and other available information. (See section 38-162.)

(Code 1994, § 18.17.2)

Secs. 38-359—38-389. Reserved.

ARTICLE IV. COMMUNICATION TOWERS AND ANTENNAE

Sec. 38-390. Requirements and regulations of towers and antennas.

- (a) *Definitions.* The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Alternative tower structure means manmade structures such as clock towers, bell steeples, light poles and similar mounting structures.

Antenna means any exterior transmitting or receiving device mounted on a tower, building or structure and used in communications that radiate or capture electromagnetic waves, digital signals, analog signals, radio frequencies (excluding radar signals), wireless telecommunications signals or other communications signals.

Backhaul network means the lines that connect a provider's tower/cell sites to one or more cellular telephone switching offices and/or long distance providers or the public switch telephone network.

Collocation means the provisions of multiple antennas or more than one commercial wireless communications service provider or government entity on a single tower or structure.

FAA means Federal Aviation Administration

FCC means Federal Communications Commission

Height means, when referring to a tower or other structure, the distance measured from the grade to the highest point on the tower or other structure, including the base pad.

Personal communications service (PSC) means the provider of personal wireless service as defined in the Telecommunications Act of 1996, 47 USC 332 and 704 and as the same is amended from time to time.

Personal wireless facilities mean transmitters, antenna structures and other types of installations used to provide personal wireless services.

Pre-existing towers/antennas mean any tower or antenna for which a building permit or conditional use permit has been properly issued prior to the effective date of the ordinance from which this section is derived.

Tower means any structure that is designed and constructed for the purpose of supporting one or more antennas for telephone, radio and similar communications purposes, including self-supporting lattice towers, microwave towers, common-carrier towers, cellular telephone towers, alternative tower structures and the like. The term "tower" includes the structure and support thereto.

- (b) *Standards and exceptions.*

(1) *Applicability.*

- a. *New towers and antennas.* All towers or antennas constructed after passage of this section shall be subject to all applicable standards of this section.
- b. *Pre-existing towers and antennas.* Any tower or antenna for which a permit has been properly issued prior to the effective date of the ordinance from which this section is derived shall not be required to meet the requirements of this section other than the requirements of subsection (b)(2) of this section. Any such towers or antennas shall be referred to hereinafter as pre-existing towers or pre-existing antennas.

- c. *Amateur radio and receive-only antennas.* This section shall not apply to any tower or installation of any antenna that is under 70 feet in height and is owned by a federally licensed amateur radio station operator or is used exclusively for a receive-only antenna.

(2) *General requirements.*

- a. *Building codes, safety standards.* To ensure the structural integrity of towers, the owner of a tower shall ensure that it is maintained in compliance with standards contained in applicable state or local building codes and the applicable standards for towers that are published by the Electronic Industries Association, as amended from time to time. If, upon inspection, the building inspector concludes that a tower fails to comply with such codes and standards and constitutes a danger to persons or property, upon notice being provided to the owner of a tower, the owner shall immediately bring such tower into compliance with such standards. Failure to bring such tower immediately into compliance shall constitute grounds for the removal of the tower or antenna at the owner's expense.
- b. *State or federal requirements.* All towers shall meet or exceed standards and regulations of the FCC, the FAA and any other agency of the state or federal government with the authority to regulate towers and antennas.
- c. *Collocation.*
 - 1. Any proposed telecommunication tower and tower site shall be designed in all respects so as to accommodate collocation of the applicant's antennas and at least two additional users. Towers and tower sites shall be designed to allow for future rearrangement of antennas upon the tower, to accept antennas mounted at varying heights, and to accommodate supporting buildings and equipment.
 - 2. The holder of a permit for a tower shall permit collection for at least two additional users and shall not make access to the tower and tower site for an additional user economically unfeasible. If an additional user demonstrates, through an independent arbitrator or other permitted means, that the holder of a tower permit has made access to such tower and tower site economically unfeasible, the permit shall become null and void.
- d. *Antenna height.* Antenna height shall not be restricted provided such device is installed and maintained in accordance with applicable state and local building codes and in compliance with current standards of the FAA, FCC and any other agency of the state or federal governments with the authority to regulate antennas.
- e. *Tower height.* 200 feet maximum.
- f. *Separation between towers.* Separation distance between towers shall be applicable for a proposed tower and any preexisting towers. The separation distance shall be measured by a straight line between the base of an existing tower and the base of a proposed tower.

New Tower Type	Existing Tower Type			
	Lattice	Guyed	Monopole 75 feet in height or greater	Monopole less than 75 feet in height
Lattice	5000 feet	5000 feet	1500 feet	750 feet

Guyed	5000 feet	5000 feet	1500 feet	750 feet
Monopole less than 75 feet in height	1500 feet	1500 feet	1500 feet	750 feet
Monopole greater than 75 feet in height	750 feet	750 feet	750 feet	750 feet

- g. *Availability of suitable existing towers, other structures or alternative technology.* No new tower shall be permitted unless the applicant demonstrates that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. Evidence submitted to determine that no existing tower, structure or alternative technology can accommodate the applicant's proposed antenna may consist of any of the following:
1. No existing towers or structures are located within the geographic area which meet the applicant's engineering requirements.
 2. Existing towers or structures are not of sufficient height to meet the applicant's engineering requirements.
 3. Existing towers or structures do not have sufficient structural strength to support the applicant's proposed antenna and related equipment.
 4. The proposed antenna would cause electromagnetic interference with the antenna on the existing towers or structures, or the antenna on the existing towers or structures would cause interference with the proposed antenna.
 5. The fees, costs or contractual provisions required by the owner in order to share an existing tower or structure or to adapt an existing tower or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
 6. The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
 7. The applicant demonstrates that an alternative technology that does not require the use of towers or powered transmitters/receivers attached to a wire line system is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.
- h. *Construction of new towers instead of utilizing existing towers.* If an applicant wishes to construct a new tower instead of using an existing tower, the applicant shall file an application in writing and include the following information:
1. The name and business address of, and the contact individual for, the applicant.
 2. The location of the proposed or affected support structure.
 3. The location of the proposed mobile service facility.
 4. An explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the mobile service support structure attesting to one of the following:

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- (i) That collocation within the applicant's search ring would not result in the same mobile service functionality, coverage and capacity;
 - (ii) Collocation is technically infeasible; or
 - (iii) Collocation is economically burdensome to the mobile service provider.
 - i. *Aesthetics.*
 - 1. Towers shall maintain either a galvanized steel finish or, subject to any applicable standards of the FAA, be painted a light gray so as to reduce visual obtrusiveness and blend into the natural setting and built environment.
 - 2. At a tower site, the design of the building and related structures shall, to the extent possible, use materials, colors, textures, screening and landscaping that will blend the tower facilities to the natural setting and built environment.
 - 3. If an antenna is installed on a structure other than a tower, the antenna and supporting electrical and mechanical equipment shall be of a neutral color that is identical to, or closely compatible with, the color of the supporting structure so as to make the antenna and related equipment as visually unobtrusive as possible.
 - j. *Lighting.* Towers shall not be artificially illuminated unless required by the FAA or any other applicable authority. If lighting is required, the lighting alternatives and design chosen shall cause the least disturbance to the surrounding views.
 - k. *Fencing.* A tower shall be enclosed by security fencing not less than eight feet in height and secured so that it is not accessible by the general public. Fence design, materials and colors shall reflect the character of the surrounding area.
 - l. *Landscaping.* A buffer of plant materials to effectively screen the tower compound from public view and from adjacent properties shall be provided. The minimum buffer shall consist of a landscape strip of at least five feet in width outside the perimeter of the tower compound. Existing mature tree growth and natural landforms shall be preserved to the maximum extent possible. In some cases, such as towers placed on large, wooded lots, natural growth around the property perimeter may be a sufficient buffer.
 - m. *Accessory equipment and buildings.* The equipment cabinet or structure used in association with an antenna shall be suited in accordance with the development standards of the underlying zoning district. Equipment cabinets or structures shall be screened from view by an evergreen hedge or other suitable landscape treatments, except where the use of nonvegetative screening would better reflect and complement the architectural character of the surrounding neighborhood.
 - n. *Signs.* No signage or advertising is permitted to be placed on a wireless communication tower.
- (c) *Permitted uses.* The installation of a tower or antenna as follows:
- (1) *Antennas on existing tower.* The attachment of a new antenna on an existing tower may be permitted to minimize adverse visual impacts associated with the proliferation and clustering of the towers provided that:
 - a. The height of the existing tower is not increased.
 - b. No building addition is required.
 - (2) *Cable microcell network.* The installation of a cable microcell network may be permitted through the use of multiple low-powered transmitters/receivers attached to existing wireline systems such as conventional cable or telephone wires or similar technology that does not require the use of towers.

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- (d) *Conditional uses.* The installation of towers and antennas, including the placement of accessory equipment or buildings, may be permitted by conditional use permit in all M-2 Manufacturing Districts. In addition to the standards identified in this section, any request for a conditional use permit shall also comply with the standards identified by this section.
- (e) *Removal of abandoned antennas and towers.* An antenna or tower that that is not operated for a continuous period of 12 months shall be considered abandoned and the owner of such antenna or tower shall remove the same within 90 days of receipt of notice from the village notifying the owner of such abandonment. Failure to remove the antenna or tower within 90 days shall be grounds to remove the antenna or tower at the owner's expense. If there are two or more users of a single tower, the provisions shall not become effective until all users cease using the tower.

(Ord. No. 1-04, § I, 3-1-2004)

Secs. 38-391—38-408. Reserved.

ARTICLE V. WIND ENERGY

Sec. 38-409. Authority.

This article is adopted pursuant to authority granted by Wis. Stats. §§ 61.35, 62.23(7) and 66.0401.
(Ord. No. 03-2009, § 17.212(1), 6-1-2009)

Sec. 38-410. Purpose.

The purpose of this article is to:

- (1) Oversee the permitting of wind energy systems.
- (2) Preserve and protect public health and safety without significantly increasing the cost or decreasing the efficiency of a wind energy system (per Wis. Stats. § 66.0401).

(Ord. No. 03-2009, § 17.212(2), 6-1-2009)

Sec. 38-411. Definitions.

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

Board means the village board.

Meteorological tower (met tower) means and includes the tower, base plate, anemometers (wind speed indicators), wind direction vanes, booms to hold equipment anemometers and vanes, data logger, instrument wiring, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics over a period of time for either instantaneous wind information or to characterize the wind resource at a given location.

Owner means the individual or entity that intends to own and operate the wind energy system in accordance with this article.

Rotor diameter means the cross sectional dimension of the circle swept by the rotating blades.

Total height means the vertical distance from ground level to the tip of a wind generator blade when the tip is at its highest point or to the highest extension of any other portion of such equipment.

Tower means the monopole or freestanding structure that supports a wind generator.

Wind energy system means equipment that converts and then stores or transfers energy from the wind into usable forms of energy as defined by Wis. Stats. § 66.0403(1)(m). This equipment includes any base, blade, foundation, generator, nacelle, rotor, tower, transformer, vane, wire, inverter, batteries or other component used in the system.

Wind generator means blades and associated mechanical and electrical conversion components mounted on top of the tower.

(Ord. No. 03-2009, § 17.212(3), 6-1-2009)

Sec. 38-412. Standards.

A wind energy system shall be a conditional use in all zoning districts subject to the following requirements:

- (1) *Setbacks.* A wind system shall be set back a distance equal to 1.1 times its total height from:
 - a. Any public road right-of-way, unless written permission is granted by the governmental entity with jurisdiction over the road;
 - b. Any overhead utility lines, unless written permission is granted by the affected utility;
 - c. All property lines, unless a written easement is granted from the affected land owner or neighbor and is filed with the conditional use permit application in the village clerk-treasurer's office.
- (2) *Access.*
 - a. All ground mounted electrical and control equipment shall be labeled to prevent unauthorized access.
 - b. The tower shall be designed and installed so as to not provide step bolts or a ladder readily accessible to the public for a minimum height of eight feet above the ground and the owner shall maintain a locked fence around the tower no less than eight feet high.
- (3) *Electrical wires.* All electrical wires associated with a wind energy system, other than wires necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires shall be located underground.
- (4) *Lighting.* A wind energy system shall not be artificially lighted unless such lighting is required by the Federal Aviation Administration.
- (5) *Appearance, color and finish.* The wind energy system shall remain painted or finished the color or finish that was originally applied by the manufacturer, unless approved in the conditional use permit.
- (6) *Signs.* All signs, other than the manufacturer's or installer's identification, appropriate warning signs, or owner identification on a wind generator, tower, building, or other structure associated with a wind energy system visible from any public road shall be prohibited.
- (7) *Code compliance.* A wind energy system including tower shall comply with all applicable state construction and electrical codes, and the National Electrical Code.
- (8) *Signal interference.* The owner of a wind energy system or met tower must take reasonable steps to prevent and eliminate any interference with the transmission and reception of electromagnetic communications, such as microwave, radio, telephone, or television signals.
- (9) *Utility notification and interconnection.* Wind energy systems that connect to the electric utility shall comply with the Public Service Commission of Wisconsin's Rule 119, "Rules for Interconnecting Distributed Generation Facilities."
- (10) *Met towers.* Met towers shall meet the same standards, permit requirements, restoration requirements, and permit procedures as a wind energy system.

(Ord. No. 03-2009, § 17.212(4), 6-1-2009)

Sec. 38-413. Abandonment.

- (a) A wind energy system that is out-of-service for a continuous 12-month period may be deemed to have been abandoned. The village board may request from the owner of a wind energy system that is deemed to have been abandoned an explanation of the apparent lack of service.
- (b) If the wind energy system is determined to be abandoned, the owner of a wind energy system shall remove the wind generator and the tower at the owner's sole expense within six months of receipt of notice of abandonment. If the owner fails to remove the wind generator and the tower, the village board may pursue a legal action to have these removed at the owner's expense.

(Ord. No. 03-2009, § 17.212(5), 6-1-2009)

Sec. 38-414. Permit procedures.

- (a) *Application.* An owner shall first submit an application to the plan commission for a conditional use permit for a wind energy system, as provided in section 38-39. The application shall be accompanied by two copies of the documents identified in subsection (b)(1) of this section as well as all documents required in section 38-39(b)(1) and the required fees.
- (b) *Recommendation and approval.* The plan commission shall then make its recommendation to the village board. If the conditional use permit is approved by the village board, application shall then be made for a building permit, requirements as follows:
 - (1) *Documents.* The building permit application shall be accompanied by a plot plan which includes the following:
 - a. Property lines and physical dimensions of the property.
 - b. Location, dimensions, and types of existing major structures on the property.
 - c. Location of the proposed wind system tower.
 - d. The right-of-way of any public road that is contiguous with the property.
 - e. Any overhead utility lines.
 - f. Wind system specifications, including manufacturer and model, rotor diameter, tower height, tower type.
 - g. Tower foundation blueprints or drawings.
 - h. Tower blueprint or drawing.
 - (2) *Fees.* The application for a building permit for a wind energy system must be accompanied by the fee required for a building permit.
 - (3) *Expiration.* A permit issued pursuant to this article shall expire if the wind energy system is not installed and functioning within 24 months from the date the permit is issued.
- (c) *Display of permit on premises.* The owner shall conspicuously post the building permit on the premises so as to be visible to the public at all times until construction or installation of the wind energy system is complete.
- (d) *Review consultation and expenses.* If the village determines that it is necessary to consult with one or more professionals such as attorneys or engineers for purposes of application review, the reasonable costs and expenses billed by such professional may be charged to the applicant.

(Ord. No. 03-2009, § 17.212(6), 6-1-2009)

Sec. 38-415. Violations.

- (a) It is unlawful for any person to construct, install, or operate a wind energy system that is not in compliance with this article or with any condition contained in a conditional use permit issued pursuant to this article.
- (b) This article shall take effect on the day after publication of a summary thereof in The Sounder, the official newspaper of the village.

(Ord. No. 03-2009, § 17.212(7), 6-1-2009)

Secs. 38-416—38-443. Reserved.

ARTICLE VI. CONSTRUCTION SITE EROSION CONTROL

Sec. 38-444. Erosion control regulations, requirements and specifications.

The intent of this section is to require erosion control practices that will reduce the amount of sediment and other pollutants leaving construction sites during land development or land disturbance activities. This section applies to all land disturbing construction activities.

- (1) *Authority.* This section is adopted under the authority granted in Wis. Stats. § 61.354.
- (2) *Findings and purpose.*
 - a. *Findings.* The village board finds runoff from construction sites carries a significant amount of sediment and other pollutants to the waters of the state and the village.
 - b. *Purpose.* It is the purpose of this section to preserve the natural resources; to protect the quality of the waters of the state and the village; and to protect and promote the health, safety and welfare of the people to the extent practicable by minimizing the amount of sediment and other pollutants carried by runoff or discharges from construction sites to lakes, streams and wetlands.
- (3) *Applicability.* This section applies to land disturbing and land developing activities on lands within the boundaries and jurisdiction of the village and, optionally, the public and private lands subject to extraterritorial review under Wis. Stats. ch. 236. All state-funded or -conducted construction is exempt from this section.
- (4) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Agricultural land use means use of land for planting, growing, cultivating and harvesting of crops for human or livestock consumption and pasturing or yarding of livestock.

Commercial land use means use of land for the retail or wholesale sale of goods or services.

Construction site control measure means a control measure used to meet the requirements of section (7)b of this section.

Control measure means a practice or combination of practices to control erosion and attendant pollution.

Control plan means a written description of the number, locations, sizes and other pertinent information of control measures designed to meet the requirements of this section submitted by the applicant for review and approval by the director of public works.

Erosion means the detachment and movement of soil, sediment or rock fragments by water, wind, ice or gravity.

Land developing activity means the construction of buildings, roads, parking lots, paved storage areas and similar facilities.

Land disturbing construction activity means any manmade change of the land surface, including removing vegetative cover, excavating, filling and grading, but not including agricultural land uses such as planting, growing, cultivating and harvesting of crops; growing and tending of gardens; harvesting of trees; and landscaping modifications.

Land user means any person operating, leasing, renting or having made other arrangements with the landowner by which the landowner authorizes use of his land.

Landowner means any person holding title to or having an interest in land.

Runoff means the rain fall, snow melt or irrigation water flowing over the ground surface.

Site means the entire area included in the legal description of the land on which the land disturbing or land development activity is proposed in the permit application.

- (5) *Design criteria, standards and specifications for control measures.* All control measures required to comply with this section shall meet the design criteria, standards and specifications for the control measures based on accepted design criteria, standards and specifications identified by the director of public works and in accordance with, but not limited to, the Wisconsin Construction Site Best Management Practice Handbook.
- (6) *Maintenance of control measures.* All sedimentation basins and other control measures necessary to meet the requirements of this section shall be maintained by the applicant or subsequent landowner during the period of land disturbance and land development of the site in a satisfactory manner to ensure adequate performance and to prevent nuisance conditions.
- (7) *Control of erosion and pollutants during land disturbance and development.*
- a. *Applicability.* This subsection applies to the following sites of land development or land disturbing activities:
1. Those requiring a subdivision plat approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved subdivision plats.
 2. Those requiring a certified survey approval or the construction of houses or commercial, industrial or institutional buildings on lots of approved certified surveys.
 3. Those involving grading, removal of protective ground cover or vegetation, excavation, land filling or other land disturbing activity affecting a surface area of 4,000 square feet or more.
 4. Those involving excavation or filling or a combination of excavation and filling affecting 350 cubic yards or more of dirt, sand or other excavation or fill material. Excavation and filling of less than 350 cubic yards, at the discretion of the director of public works, may require control of erosion and pollutants if judged necessary.
 5. Those involving street, highway, road or bridge construction, enlargement, relocation or reconstruction.
 6. Those involving the laying, repairing, replacing or enlarging of an underground pipe or facility for a distance of 300 feet or more.
- b. *Erosion and other pollutant control requirements.* The following requirements shall be met on all sites described in subsection (7)(a) of this section:
1. *Discharged water.* Water may not be discharged in a manner that causes erosion of the site or receiving channels.
 2. *Waste and material disposal.* All waste and unused building materials, including garbage, debris, cleaning wastes, wastewater, toxic materials or hazardous materials, shall be properly disposed of and not allowed to be carried by runoff into a receiving channel or storm sewer system.
 3. *Tracking.* Each site shall have graveled roads, access drives and parking areas of sufficient width and length to prevent sediment from being tracked onto public or private roadways.

Any sediment reaching a public or private road shall be removed by street cleaning (not flushing) before the end of each work day.

4. *Drain inlet protection.* All storm drain inlets shall be protected with a straw bale, filter fabric or equivalent barrier meeting accepted design criteria, standards and specifications.
 5. *Site erosion control.* The following criteria apply only to land development or land disturbing activities that result in runoff leaving the site:
 - (i) Channelized runoff and sheet flow runoff from adjacent areas passing through the site shall be diverted around disturbed areas, if practical. Otherwise, channelized runoff and sheet flow runoff shall be protected as described in subsection (7)b.5(ii) of this section.
 - (ii) All activities on the site shall be conducted in a logical sequence to minimize the area of bare soil exposed at any one time. This shall include the planting of vegetative cover as soon as practical.
 - (iii) Runoff from the entire disturbed area on the site shall be controlled by meeting the following:
 - A. For sites with more than ten acres disturbed at one time, or if a channel originates in the disturbed area, sedimentation basins/traps shall be constructed.
 - B. For all sites, filter fences, straw bales or equivalent control measures shall be placed along all critical/necessary sides of the site as determined by the director of public works. If a channel or area of concentrated runoff passes through the site, filter fences shall be placed along the channel edges to reduce sediment reaching the channel.
 - (iv) Soil or dirt storage piles containing more than 350 cubic yards of material shall be controlled by placing straw bales or filter fence barriers around the down slope side of the pile. Any soil or dirt storage pile under 350 cubic yards may be required, at the discretion of the director of public works, to be controlled by placing straw bales or filter fence barriers around the down slope side of the piles if conditions warrant. New in-street utility construction soil or dirt storage piles located closer than 25 feet to a roadway or drainage channel, if exposed for more than seven days, must be protected with straw bales or other appropriate filtering barriers.
- (8) *Permit application, control plan and permit issuance.* No landowner or land user may commence a land disturbance or land development activity, subject to this section, without receiving prior approval of a control plan for the site and a permit from the director of public works. At least one landowner or land user controlling or using the site and desiring to undertake a land disturbing or land developing activity subject to this section shall submit an application for a permit and a control plan and pay an application fee to the director of public works. By submitting an application, the applicant is authorizing the director of public works to enter the site to obtain information required for the review of the control plan.
- a. *Control plan for activities covering more than one acre.* Content of the control plan for land disturbing activities covering more than one acre.
 1. *Existing site map.* A map of existing site conditions on a scale of at least one inch equals 100 feet showing the site and immediately adjacent areas:
 - (i) Site boundaries and adjacent lands which accurately identify site location.

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- (ii) Lakes, streams, wetlands, channels, ditches and other watercourses on and immediately adjacent to the site.
 - (iii) One hundred year floodplains, flood fringes and floodways.
 - (iv) Vegetative cover.
 - (v) Location and dimensions of stormwater drainage systems and natural drainage patterns on and immediately adjacent to the site.
 - (vi) Locations and dimensions of utilities, structures, roads, highways and paving.
 - (vii) Site topography at a contour interval not to exceed two feet.
 - 2. *Plan of final site conditions.* A plan of final site conditions on the same scale as the existing site map showing the site changes.
 - 3. *Site construction plan.* A site construction plan, including the following:
 - (i) Locations and dimensions of all proposed land disturbing activities.
 - (ii) Locations and dimensions of all temporary soil or dirt stock piles.
 - (iii) Locations and dimensions of all construction site management control measures necessary to meet the requirements of this section.
 - (iv) Schedule of anticipated starting and completion date of each land disturbing or land developing activity, planting of vegetative cover and installation of construction site control measures needed to meet the requirements of this section.
 - (v) Provisions for maintenance of the construction site control measures during construction.
 - b. *Control plan for activities covering less than one acre but meeting land disturbance and development applicability requirements.* Content of control plan statement for land disturbing activities covering less than one acre, but meeting the applicability requirements stated in subsection (7)a of this section. An erosion control plan statement, with simple map, shall be submitted to briefly describe the site and erosion controls, including the site development schedule that will be used to meet the requirements of this section.
 - c. *Review of control plan.* Within 30 days of receipt of the application, control plan, or control plan statement and fee, the director of public works shall review the application and control plan to determine if the requirements of this section are met. The director may request comments from other departments or agencies. If the requirements of this section are met, the director shall approve the plan, inform the applicant and issue a permit. If the conditions are not met, the director shall inform the applicant, in writing, and may either require needed information or disapprove the plan. Within 30 days of receipt of needed information, the director shall again determine if the plan meets the requirements of this section. If the plan is disapproved, the director shall inform the applicant, in writing, of the reasons for the disapproval.
 - d. *Duration and conditions of permits.*
 - 1. *Duration.* Permits shall be valid for a period of 180 days or the length of the building permit or other construction authorizations, whichever is longer, from the date of issuance. The director of public works may extend the period one or more times for up to an additional 180 days. The director may require additional control measures as a condition of the extension if they are necessary to meet the requirements of this section.

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2. *Conditions.* All permits shall require the permittee to:
- (i) Notify the director within 48 hours of commencing any land disturbing activity.
 - (ii) Notify the director of the completion of any control measures within 48 hours after their installation.
 - (iii) Obtain permission, in writing, from the director prior to modifying the control plan.
 - (iv) Install all control measures as identified in the approved control plan.
 - (v) Maintain all road drainage systems, stormwater drainage systems, control measures and other facilities identified in the control plan.
 - (vi) Repair any siltation or erosion damage to adjoining surfaces and drainage ways resulting from land developing or disturbing activities.
 - (vii) Inspect the construction control measures after each rain of 0.5 inches or more and at least once each week and make needed repairs.
 - (viii) Allow the director to enter the site for the purpose of inspecting compliance with the control plan or for performing any work necessary to bring the site into compliance with the control plan.
 - (ix) Keep a copy of the control plan on the site.

(9) *Inspection.* The director of public works shall inspect construction sites at times appropriate to stages of construction. If land disturbing or land development activities are being carried out without a permit, the director shall enter the land pursuant to the provisions of Wis. Stats. §§ 66.122 and 66.123.

(10) *Enforcement.*

- a. The director of public works may post a stop work order if:
 - 1. Any land disturbing or land developing activity regulated under this section is being undertaken without a permit;
 - 2. The control plan is not being implemented in a good faith manner; or
 - 3. The conditions of the permit are not being met.
- b. If the permittee does not cease the activity or comply with the control plan or permit conditions within 48 hours, the director has the power to revoke the permit.
- c. If the landowner or land user, where no permit has been issued, does not cease the activity within 48 hours, the director may request the village attorney to obtain a cease and desist order.
- d. The director or the village board may retract the stop work order or the revocation.
- e. Forty-eight hours after posting a stop work order, the director may issue a notice of intent to the permittee or landowner or land user of the village's intent to perform the work necessary to comply with this section. The village or agents of the village may go on the land and commence the work after 48 hours from issuing the notice of intent. The costs of the work performed by the village plus interest at the rate authorized by the village board shall be billed to the permittee or the landowner. In the event a permittee or landowner fails to pay the amount due, the clerk-treasurer shall enter the amount due on the tax roll and shall collect as a special assessment against the property, pursuant to Wis. Stats. § 66.60(16).

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- f. Any person violating any of the provisions of this section shall be subject to a forfeiture of not less than \$10.00 nor more than \$1,000.00 and the costs of prosecution for each violation. Each day a violation exists shall constitute a separate offense.
 - g. Compliance with the provisions of this section may also be enforced by injunction.

(11) *Appeals.*

- a. *Board of zoning appeals.* The board of zoning appeals, created pursuant to section 38-356, pursuant to Wis. Stats. § 62.23(7)(e).
- b. *Who may appeal.* Any applicant, permittee, landowner or land user may appeal any order, decision or determination made by the director in administering this section.

(Ord. No. 1-04, § I, 3-1-2004)

Secs. 38-445—38-471. Reserved.

ARTICLE VII. ADULT-ORIENTED LAND USES

Sec. 38-472. Purpose.

- (a) The purpose of this section is to control, through zoning regulations, certain adult-oriented land uses that have a direct and detrimental effect on the character of the village's agricultural and residential neighborhoods, as well as businesses and commercial areas.
- (b) It shall not impose a limitation on the content of any communication materials, including sexually oriented materials as protected by the United States and state constitutions.

(Ord. No. 8-2016, § 17.29(1), 7-18-2016)

Sec. 38-473. Definitions.

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

Adult-oriented entertainment land uses means an adult bookstore, adult theater, adult massage parlor, adult sauna, adult entertainment center, adult cabaret, adult health/sports club, adult steam room/bathhouse facility, any bar, dance hall, restaurant or other place of business, which features dancers, go-go dancers, exotic dancers, strippers, male or female conduct, or the simulation of such conduct, or any other business whose primary business activity is characterized by emphasis on matters depicting, describing, or relating to nudity, sexual conduct, sexual excitement or other sexual practices.

Nudity means the showing of the human male or female genitals or pubic area with less than a fully opaque covering or the depiction of covered male genitals in a discernibly turgid state and/or the appearance of bare buttocks, anus, or female breast.

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.

Sexual excitement means the condition of human male or female genitals when in a state of sexual stimulation or arousal.

(Ord. No. 8-2016, § 17.29(2), 7-18-2016)

Sec. 38-474. General requirements.

- (a) *Zoning district.* Adult-oriented land uses are not permitted uses in any zoning district, but may be operated or maintained only within the M-1 industrial district with a conditional use permit, provided that it is located on a minor arterial road and subject to the distance limitations and other regulations noted in this section. The procedures and public hearing requirements of section 38-444 shall apply.
- (b) *Distance limitations.* No adult-oriented entertainment land use, as defined in this section, shall:
 - (1) Be operated or maintained within 1,000 feet of the boundary of any residentially zoned, commercial zoned district, or highway commercial district;

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- (2) Be operated or maintained within 1,000 feet of a church, public park, licensed day care facility, public library, public or private educational facility, which serve persons age 17 years or younger, elementary school, high school, place of worship, or elderly housing facility:
 - (3) Be operated or maintained so that there are no more than two such businesses within 2,500 feet, as measured by the radius from each business;
 - (4) Be measured in a straight line from the main public entrances of said premises, to the lot lines of properties in agriculturally, residentially, and business zoned districts, or other facilities described herein.
- (c) *Same use restrictions.* No adult-oriented business shall be located in the same building or upon the same premises as any other such use.
- (d) *Sign limitations.* Notwithstanding any provision of this Code, an adult-oriented entertainment business shall not be permitted more than one sign advertising its business, which shall be an on-premises or building sign only. All such signs shall meet the following criteria:
- (1) Have no merchandise or pictures of the products or entertainment on the premises displayed in window areas or any area where they can be viewed from the sidewalk or public street in front of or adjacent to the building;
 - (2) No sign shall be placed in any window, except a one square foot sign may be placed on the door to state hours of operation and admittance to adults only;
 - (3) No sign shall contain any flashing lights, moving elements, or mechanically changing messages;
 - (4) No sign shall contain any depiction of the human form or any part thereof, nor shall it contain explicit language such as 'nude dancing' or 'girls, girls, girls,' etc.;
 - (5) No adult oriented entertainment business may have any off-premises sign.
- (e) *Operating standards.* All adult-oriented entertainment businesses shall operate in accordance with the following:
- (1) No employee shall solicit business outside the building in which the business is located;
 - (2) No male or female person, whether on the premises, shall expose to public view his or her genitals, pubic area, anus, or anal cleft. Full nudity is prohibited;
 - (3) No person on the premises shall engage in sexual conduct, or in any way fondle his genitals;
 - (4) No person, employee, entertainer or patron shall be permitted to have any physical contact with any entertainer on the premises during any performance. All performances shall only occur on a stage, or on a table that is in a designated area within full and unrestricted view of the bar area, either of which is elevated as least 18 inches above the immediate floor level and removed a distance sufficient to prevent actual physical contact between the entertainer and another entertainer or any other person, employee or patron;
 - (5) No person under 18 years of age may be admitted to, enter or remain on, purchase goods or services at, or work or be permitted to work as an employee in any capacity at an establishment subject to the provisions of this section;
 - (6) No person shall cause another to commit a violation of this section, nor shall any person permit such a violation to occur on any premises under his control, tenancy, management or ownership.
- (f) *Building exterior appearance.* The building exterior of any premises containing an adult-oriented entertainment business shall meet the following criteria:
- (1) Colors to be earth or neutral tones with primary accent colors to be within the same color family;

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- (2) Stripes and geometric patterns are prohibited;
 - (3) The exterior shall be adequately maintained and in good condition.
- (g) *Applicability; nonconforming use regulation.* The provisions of this section shall apply to all existing or future adult-oriented establishment land uses. Any such existing land use or business that does not meet the zoning district restrictions or the distance limitations may continue its existence as a nonconforming use, except that such privilege of nonconforming use shall cease upon the discontinuance of the activities within such establishment for seven consecutive calendar days, including any days when the establishment is normally closed for business.

(Ord. No. 8-2016, § 17.29(3), 7-18-2016)

Sec. 38-475. Hours of operation.

No adult-oriented establishment shall be open between the hours of 2:00 a.m. and 8:00 a.m., Monday through Friday, or between the hours of 2:30 a.m. and 8:00 a.m., on Saturday and Sunday.

(Ord. No. 8-2016, § 17.29(4), 7-18-2016)

Sec. 38-476. License.

- (a) Except as provided in subsection (e) of this section, from and after the effective date of the ordinance from which this article is derived, no adult-oriented establishment shall be operated or maintained in any area in the village without first obtaining a license to operate issued by the village board.
- (b) A license may be issued for only one adult-oriented establishment located at a fixed and certain place per application filed. Any person, partnership or corporation which desires to operate more than one adult-oriented establishment must have a license for each.
- (c) No license or interest in a license may be transferred to any person, partnership, or corporation.
- (d) It shall be unlawful for any entertainer, employee or operator to knowingly work in or to knowingly perform any service related to the operation of any adult oriented establishment which does not have a valid license pursuant to this article.
- (e) Nothing in this section shall be construed as to permit material or performances prohibited by Wis. Stats. § 944.21.

(Ord. No. 8-2016, § 17.29(5), 7-18-2016)

Sec. 38-477. License requirements.

To receive a license to operate an adult-oriented establishment, an applicant must meet the following standards:

- (1) *If the applicant is an individual.*
 - a. The applicant must be at least 18 years of age.
 - b. The applicant shall not have been found to have previously violated this article within five years preceding the date of application.

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- c. The applicant shall not have been convicted of any offense involving moral turpitude, prostitution, obscenity, or other offense of a sexual nature in any jurisdiction within five years immediately preceding the date of application, unless the person has been duly pardoned.
- (2) *If the applicant is a corporation.*
- a. All officers, directors, shareholders, and agents required to be named under this article must be at least 18 years of age.
 - b. Neither the corporate applicant nor any officer, director or shareholder required to be named under this article shall have been found to have previously violated this article within five years preceding the date of application.
 - c. No officer, director, shareholder or agent required to be named under this article, or the corporate applicant shall have been convicted of any offense involving moral turpitude, prostitution, obscenity, or other offense of a sexual nature in any jurisdiction within five years immediately preceding the date of application, unless the person has been duly pardoned.
- (3) *If the applicant is a partnership, joint venture, or any other type of organization where two or more persons have a financial interest.*
- a. All persons having a financial interest in the partnership, joint venture, or other type of organization shall be at least 18 years of age.
 - b. Neither the applicant nor any person having a financial interest in the organization shall have been found to have violated any provision of this article within five years immediately preceding the date of application.
 - c. No applicant or person having a financial interest in the partnership, joint venture, or other type of organization shall have been convicted of any offense involving moral turpitude, prostitution, obscenity, or other offense of a sexual nature in any jurisdiction within five years immediately preceding the date of application, unless the person has been duly pardoned.

(Ord. No. 8-2016, § 17.29(6), 7-18-2016)

Secs. 38-478—38-500. Reserved.

ARTICLE VIII. ADMINISTRATION AND ENFORCEMENT

Sec. 38-501. Enforcement.

It shall be the duty of the zoning administrator, with the aid of the police department, to enforce the provisions of this chapter.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-502. Violation and penalties.

Any person who violates, disobeys, neglects, omits or refuses to comply with, or who resists the enforcement of any of the provisions of this chapter, shall forfeit a sum of not less than \$10.00 nor more than \$200.00, together with the costs of prosecution, and, in case of nonpayment of such forfeiture, shall be imprisoned in the county jail for a term of not more than 30 days or until such judgment is paid, and each day of violation shall constitute a separate offense.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-503. Plan commission.

The plan commission shall have the powers and duties prescribed in Wis. Stats. § 62.23, and such other powers and duties as shall be vested in the commission from time to time by the village board. In addition to all other powers of the plan commission, the commission shall oversee the functions of the office of the zoning administrator and review and advise the village board regarding proposed amendments to this chapter and related zoning maps; provided, however, that the plan commission shall not grant variances under this chapter in place of action by the board of zoning appeals or amend this chapter in place of official action by the village board.

(Code 1994, § 18.16.2; Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-504. Board of zoning appeals.

(a) *Appeals to board.*

- (1) Appeals to the board of zoning appeals may be taken by any person aggrieved or by any officer, department, board or bureau of the village affected by any decision of the administrative officers. Such appeal shall be taken within 30 days from either the date of actual notice of said decision to the person aggrieved or from the date of the mailing of a copy of said decision to him, whichever is earlier, by filing with the officer from whom the appeal is taken and with the board a notice of appeal specifying the grounds thereof. Filing with the board shall be accomplished by filing with the clerk-treasurer.
- (2) The officer from whom the appeal is taken shall forthwith transmit to the board all papers constituting the record upon which the action appealed from was taken.
- (3) The board shall fix a reasonable time for the hearing of the appeal and shall give public notice thereof by publication once in the village's official newspaper, said publication to be not less than five days

before said hearing nor more than 15 days before said hearing and shall give notice to the parties in interest and shall decide the same within a reasonable time.

- (4) A filing fee shall accompany each such appeal and no such appeal shall be deemed properly filed unless said fee is paid. See fee schedule on file in village clerk-treasurer's office.
- (b) *Powers of board.* The board shall have the following powers:
- (1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by the administrative official.
 - (2) To hear and decide special exceptions to the terms of this article upon which the board is required to consider.
 - (3) To authorize, upon appeal in specific cases, such variance from the terms of this article as will not be contrary to the public interest where, owing to special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship so that the spirit of this article shall be observed, public safety and welfare secured, and substantial justice done.
 - (4) To permit the erection and use of a building or premises in any location subject to appropriate conditions and safeguards in harmony with the general purposes of this article for such public utility purposes which are reasonably necessary for public convenience and welfare.
 - (5) The board may reverse or affirm, wholly or in part, or may modify any order, requirement, decision or determination appealed from and shall make such order, requirement, decision or determination as, in its opinion, ought to be made in the premises and to that end shall have all the powers of the administrative official. The concurring vote of four members of the board shall be necessary to reverse any order, requirement or determination appealed from or to decide in favor of the applicant on any matter on which it is required to pass or to affect any variation in the requirements of this article.
- (c) *Other powers.* In addition to the foregoing, the board shall have the following specific powers:
- (1) To grant a permit for a temporary building for commerce or industry in a residential district which is incidental to the residential development, such permit to be issued for a period of not more than six months.
 - (2) To grant a permit for the extension of a district boundary for a distance of not more than 25 feet where the boundary of a district divides a lot in single ownership at the time of the adoption of this chapter.
 - (3) To permit the temporary storage, as defined herein, of an item otherwise prohibited under section 38-7.
 - (4) To interpret the provisions of this chapter in such a way as to carry out the intent and purpose of the plan as shown on the official map accompanying and made a part of this chapter where the street layout actually on the ground varies from the street layout on the aforesaid map.
 - (5) To call on any other village department for assistance in the performance of its duties and it shall be the duty of such other department to render such assistance as may be reasonably required.
- (d) *Powers limited.* Except as specifically provided, no action of the board shall have the effect of permitting in any district uses prohibited in such district; nor shall such board be permitted to take any action which would, in effect, create a buildable lot smaller than the minimum lot size or area otherwise required by the village.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-505. Architectural review board.

- (a) *Purpose.* The purpose of the architectural review board (ARB) is to regulate the exterior design, appearance, use and location of structures, consistent with the provisions of this article, in such a manner as to preserve and enhance values and maintain harmonious relationships among structures.
- (b) *Composition; appointment.* The architectural review board will consist of three members of the plan commission with two alternates also from the plan commission. These will be appointed by the village president and approved by the village board for a one-year term. They will report to the plan commission on findings and recommendations allowing the plan commission to either approve or disapprove plans.
 - (1) The ARB will review all new dwelling plans and all remodeling plans for the exterior of dwellings which require a building permit.
 - (2) The zoning administrator will review all minor permits such as for garages, garden sheds, storage buildings, fences, decks and porches and make his recommendation to the plan commission for final approval.
- (c) *Principles.* To implement and define criteria for the purpose set forth in this article, the following principles are established:
 - (1) No building shall be permitted, the design or exterior appearance of which is of unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and village standards.
 - (2) No building shall be permitted, the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.
 - (3) No building shall be permitted where any exposed facade is constructed or faced with a finished material which is aesthetically incompatible with the other facades and which presents an unattractive appearance to the public and to surrounding properties.
 - (4) No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area, or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
 - (5) Accessory structures for single-, two-, three-family and multifamily buildings shall be of a similar architectural appearance and material as the primary building on the property.
- (d) *Administration.* The zoning administrator shall require that each zoning permit application be accompanied by the following for review by the architectural review board:
 - (1) Three sets of building plans.
 - (2) A list of all materials and colors to be used on the exterior.
 - (3) Three plot plans with all buildings, driveways, parking areas, top of basement wall or slab on grade elevations and green space.
 - (4) An erosion control plan to be in effect during and after construction until lawn is established.

All applications turned in by the second Monday of every month will be reviewed by the ARB and presented to the full plan commission for approval or other recommendation on such time schedule as may be established from time to time by the village board.

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- (e) *Review and findings.* The exterior of any structure, where permits are required, shall not be altered, placed or erected on any lot until the building plans, specifications and site plan showing the location thereof have been approved in writing by the architectural review board. Such review shall be as to size, quality, materials, harmony of exterior design and colors with existing and planned structures, and as to location with respect to topography, neighboring structures, setbacks, finished grade elevations, driveways, landscaping or other natural characteristics of the affected lot, adjacent lots and improvements thereon. The plan commission shall review the referred plans and prepared comments and recommendations of the zoning administrator and/or architectural review board to approve or disapprove of the plans. The plan commission shall not approve any building plans unless it finds, by a preponderance of the evidence after viewing the application, that the structure, as planned, will not violate the principles set forth in subsection (c) of this section.
 - (f) *Appeals.* Any person aggrieved by any decision of the plan commission related to architectural control may appeal the decision to the village board. Such appeal shall be filed with the clerk-treasurer within 30 days after filing of the decision with the zoning administrator.

(Ord. No. 1-04, § 1, 3-1-2004; Ord. No. 1-08, §§ 1, 2, 2-18-2008)

Sec. 38-506. Changes and amendments.

- (a) *Authority.* Whenever the public necessity, convenience, general welfare or good zoning practice require, the village may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this article or amendments thereto. Such change or amendment shall be subject to the review and recommendation of the plan commission.
- (b) *Initiation.* A change or amendment may be initiated by the village board, the plan commission or by a petition of one or more of the owners or lessees of property within the area proposed to be changed.
- (c) *Petitions.* Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the clerk-treasurer and shall describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:
 - (1) A plot plan showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts and the location and existing use of all properties within 200 feet of the area proposed to be rezoned.
 - (2) The owners' names and addresses of all properties lying within 200 feet of the area proposed to be rezoned.
 - (3) Additional information required by the plan commission.
 - (4) Refer to fee schedule on file in village clerk-treasurer's office.
- (d) *Recommendations.* The plan commission shall hold a public hearing as provided for in Wis. Stats. § 62.23(7)(d) and review all proposed changes and amendments within the corporate limits and shall recommend that the petition be granted as requested, modified or denied. The recommendation shall be made at a meeting subsequent to the meeting at which the petition is first submitted and shall be made in writing to the village board.
- (e) *Village board action.* After careful consideration of the plan commission recommendations, the village board shall vote on the passage of the proposed change or amendment. If the village board denies the proposed change or amendment, a similar petition for such change or amendment may not be submitted for a period of one year.
- (f) *Protest.* In the event of a protest against such district change or amendment to the regulations of this chapter, duly signed and acknowledged by the owners of 20 percent or more of the land included in such

proposed change, or by the owners of 20 percent or more of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20 percent of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such changes or amendments shall not become effective except by the favorable vote of three-fourths of the members of the village board voting on the proposed change.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-507. Zoning permit required.

No building or structure, or any part thereof, shall hereafter be built within the village unless a permit therefor shall first be obtained by the owner or his agent from the zoning administrator. No construction shall be commenced prior to the issuance of such permit. Commencement of construction shall include such acts as beginning excavation or constructing forms for cement work. See chapter 6.

(Ord. No. 1-04, § I, 3-1-2004)

Sec. 38-508. Certificate of occupancy.

- (a) *Certificate required.* No vacant land shall be used or occupied for other than an approved use in the zoning district in which it is located and no building hereafter moved into or relocated within the village shall be so occupied or used until a certificate of occupancy shall have been issued by the building inspector. Such certificate shall show that the building or land or part thereof and the proposed use thereof are in conformity with the provisions of this article. Such certificate shall be issued only when the building or land and the proposed use thereof conform to all the requirements of this article. No such certificate shall be required for any property for which a valid zoning permit providing for such use or occupancy exists.
- (b) *Application for certificate.* Application for such certificate shall be made to the building inspector, in writing, on such form and containing such information as the applicant deems sufficient to advise such inspector of his request. After reviewing such application, the inspector may require such additional information as he deems necessary.
- (c) *Temporary certificate.* The board of zoning appeals is hereby authorized to hear and rule on appeals from the denial of such certificates by the building inspector and, upon such terms and with such conditions as it deems proper, may authorize the building inspector to issue a temporary certificate for a limited period of time.
- (d) *Fees.* The fee shall be in the amount as provided in the village fee schedule.

(Ord. No. 1-04, § I, 3-1-2004)